



## Notice of Open Meeting

### Hazardous Waste Management Commission

People 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 people may contact the Hazardous Waste Program through Relay Missouri at 1-800-735-2966.

**TO REVIEW THE DRAFT MINUTES AND INFORMATION ON THE VARIOUS ITEMS, PLEASE REFER TO THE DEPARTMENT'S WEBSITE AT:**

<https://dnr.mo.gov/env/hwp/commission/>

### AGENDA

Roaring River/Bennett Springs Conference Rooms  
1730 E. Elm Street Conference Center  
Jefferson City, Missouri

**September 13, 2018**

#### **CALL TO ORDER – Open Missouri Hazardous Waste Management Commission Meeting at 10 a.m. – Commissioner Roll Call**

1. Pledge of Allegiance - Commission and Participants
2. Review and approval of the March 22, 2018, Meeting Minutes - Recommended Action: *Commission vote to modify and/or approve minutes.*

Review and approval of the May 4, 2018, Meeting Minutes - Recommended Action: *Commission vote to modify and/or approve minutes.*

#### **ACTION ITEMS:**

3. Public Hearing on the proposed changes to Title 10, Division's 25 and 26. *The Commission to hear testimony on the proposed rule changes.*

#### **OTHER AGENDA ITEMS:**

4. Red Tape Reduction - Regulation Review - *Tim Eiken - Rules Coordinator, Hazardous Waste Program - update the Commission on the Program's progress with this effort.* Recommended Action: *For information only.*

5. Director's Report - *John Jurgensmeyer, Hazardous Waste Program Director- Update the commission on items related to Program issues. Recommended Action: For information only.*
6. Commission Report – *Amy Poos – An overview report of Program activities during the period January – June 2018. Recommended Action: For information only.*
7. Legal Update - *Jennifer Hernandez, Office of the Attorney General - to provide the Commission with updates on legal issues that may be of interest to the Commission. Recommended Action: For information only.*

## **OTHER BUSINESS**

8. Comments from the Public - *This standing item provides an opportunity for comments on any issue pertinent to the Commission's role and responsibilities. Recommended Action: For information only.*
9. Future tentative meetings dates:  
*Thursday, December 20, 2018*  
*Thursday, March 21, 2019*

## **ADJOURNMENT OF MEETING**

**Recommended Action:** *Member offer motion and second to adjourn.*

Closed Meeting - The Hazardous Waste Management Commission may go into closed session during this meeting if such action is approved by a majority vote of the Commission members who constitute a quorum to discuss: (1) Personnel actions as provided for in Section 610.021(3); (2) Legal actions, causes of actions or litigation as provided for in Section 610.021(1); and (3) Confidential and privileged matters with the Commission's attorney as provided for in Section 610.021(1), RSMo, 2003.

**If you have any questions regarding this meeting, please contact:**

Hazardous Waste Program, PO Box 176, Jefferson City, MO 65102-0176, Phone: 573-751-2747;  
Fax: 573-751-7869; Email: [debra.dobson@dnr.mo.gov](mailto:debra.dobson@dnr.mo.gov)

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

**Meeting Date: September 13, 2018**

**ROLL CALL ROSTER**

	<b>In Person:</b>	<b>By Phone:</b>	<b>Absent</b>
<b>Chairman Jamie Frakes</b>	_____	_____	_____
<b>Vice-Chairman Michael Foresman</b>	_____	_____	_____
<b>Commissioner Elizabeth Aull</b>	_____	_____	_____
<b>Commissioner Mark Jordan</b>	_____	_____	_____

**Missouri Hazardous Waste Management Commission Meeting**

**September 13, 2018**

**Agenda Item # 2**

**Approval of Minutes**

**Issue:**

Commission to review the General Session minutes from the March 22, 2018, Hazardous Waste Management Commission meeting.

Commission to review the Special Session minutes from the May 4, 2018, Hazardous Waste Management Commission meeting.

**Recommended Action:**

Commission to approve the General Session minutes from the March 22, 2018, Hazardous Waste Management Commission meeting.

Commission to approve the Special Session minutes from the May 4, 2018, Hazardous Waste Management Commission meeting.

**GENERAL**

**SESSION**

**MEETING**

**MINUTES**

GENERAL SESSION  
HAZARDOUS WASTE MANAGEMENT COMMISSION  
March 22, 2018; 10:00 A.M.  
1730 E. Elm Street  
Bennett Springs/Roaring River Conference Rooms  
Jefferson City, MO 65102

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

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

The phone line, for those Commissioners calling in to today's meeting, was opened at 9:40 a.m.

COMMISSIONERS PRESENT IN PERSON

Commissioner Elizabeth Aull  
Commissioner Mark Jordan  
Vice-Chair Michael Foresman

COMMISSIONERS PRESENT BY PHONE

Chairman Jamie Frakes

Vice-Chair Michael Foresman called the General Session to order at approximately 10:02 a.m.

A roll call was taken of the Commissioners. Commissioner Elizabeth Aull, Commissioner Michael Foresman and Commissioner Mark Jordan were present in person. Chairman Jamie Frakes was present by phone. A quorum was established.

1. PLEDGE OF ALLEGIANCE

Vice-Chair Michael Foresman led the recitation of the Pledge of Allegiance by the Hazardous Waste Management Commission (Commission) and guests.

2. APPROVAL OF MINUTES

- General Session minutes from the December 21, 2017, meeting:

A motion was made and seconded to approve the December 21, 2017, General Session minutes.

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

- General Session minutes from the October 19, 2017, meeting:

A motion was made and seconded to approve the October 19, 2017, General Session minutes. One minor correction was noted and made.

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

- General Session minutes from the June 15, 2017, meeting:

A motion was made and seconded to approve the June 15, 2017, General Session minutes.

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

3. PUBLIC HEARING ON THE RESCISSION OF THE DRYCLEANING ENVIRONMENTAL RESPONSE TRUST FUND (DERT) AND THE RESCISSION OF THE “ORGANIZATION” RULE FOR THE HAZARDOUS WASTE AND TANKS RULES

Vice Chair Michael Foresman called the public hearing to order at 10:06 a.m. Following an opening statement Mr. Tim Eiken, Rule Coordinator for the Hazardous Waste Program, was sworn in and addressed the Commission. Mr. Eiken provided testimony regarding the proposed rule rescissions. A transcript of the testimony was made and is available at <H:\Sections\DirectorsOffice\DOBSON\COMMISSION\COMMISSION MEETINGS\Public Hearing Transcripts\March 2018\March 22-2018 transcript Full.pdf>

Mr. Eiken concluded his testimony at 10:16 a.m.

Commissioner Jordan inquired as to whether there would be other rules being rescinded or amended. Mr. Eiken responded that these would be addressed at the public hearing at the September meeting. Vice Chair Michael Foresman addressed the audience and enquired as to whether anyone else wished to speak on this matter. No one requested to speak. A motion to close the hearing was made by Commissioner Aull and seconded by Commissioner Jordan. Vice Chairman Foresman called the public hearing closed at 10:17 a.m. It was noted that written comments would be accepted until March 29<sup>th</sup>.

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

4. DIRECTOR’S REPORT

Mr. John D. Jurgensmeyer, HWP Director, addressed the Commission and provided a brief overview of recent Hazardous Waste Program activities. Mr. Jurgensmeyer began with noting that a stakeholder meeting was held on February 15, 2018, and that there was a lot of discussion on the rescission of the Resource Conservation Recovery Act (RCRA) as many had originally wanted to keep the Missouri rules. He advised that after all the comments were received it was decided to rescind them. He also advised that with regards to the Generator Rules, the federal rules provide for more flexibility, and reduces confusion. He noted that it may be best to go with the federal rules, regulating generation –vs- accumulation, as more would become conditionally exempt as the rules change.

Commissioner Foresman inquired as to whether we would still enforce the federal rules. Mr. Jurgensmeyer responded that we would still enforce these rules, that the changes only covered a portion of the current state rules, which would allow for more flexibility.

Mr. Jurgensmeyer then advised the Commission that there were three bills that were currently being watched. He noted that the first one Senate Bill (SB) 706, proposed the extension of the lead acid battery fee, which is set to sunset Dec.31, 2018. He advised that the support was positive and it was moving through the legislative review process. Mr. Jurgensmeyer then addressed House Bill (HB) 2257, Section 319, Page 9, which proposed to provide funding for Underground Storage Tank (UST) regulations. He advised that the final bill was HB 2548, which proposed the merger of the Hazardous Waste Management Commission with the Missouri Emergency Response Commission (MERC). He noted that the MERC was a Tier II fee based, whereas the Hazardous Waste Management Commission handled only hazardous waste issues. Commissioner Aull inquired as to the size of the budget and the number of staff that would be involved. Mr. Jurgensmeyer advised that those issues were unknown at this time. Vice Chair Foresman also inquired as to the number of appointees that were on the MERC board and what kind issues they decided on? Mr. Jurgensmeyer responded.

Mr. Jurgensmeyer went on to provide an overview of the pesticide collection efforts so far this year. He noted that one had recently been held in Portageville, and was the largest to date with over 59,000 pounds of agricultural and farming products collected. He stated that a lot of old containers were being turned in and disposed of properly. He went on to note that the word is getting out that this is a legitimate effort and that there was sufficient funding to cover 7-10 more years of collection events.

Chairman Frakes commented that it was a very positive turnout.

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.

## 5. RED TAPE REDUCTION

Mr. Tim Eiken, Director's Office, HWP, again addressed the Commission and provided an overview of Program's Red Tape Reduction efforts over the past couple of months. He noted that this topic was a standard agenda item before all the boards and commissions following the governor's executive order as the state had solicited an analysis of all of its regulations, with a review of all "shall, must, etc." to determine if these restrictions were needed. He advised that the report covered restrictive wording, identifying outdated or unnecessary rules or language and that this information had been provided to the legislature at the end of the preceding year. He stated that staff had entered into Round #2, amendments to the rule language, and that these proposed changes were with management for their review, recommendations and approval. He noted that any updates would be provided to the Commission at the June and September meetings, and that the next public hearing would be held at the September meeting. He also noted that the timing of today's hearing would necessitate a special meeting in May 2018, by conference call, for the Commission to vote on the rescissions presented in the earlier public hearing. He advised that if the Commission approved these actions, there was a May 28<sup>th</sup> deadline for filing the decision.

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.

6. REGISTRY OF CONFIRMED ABANDONED OR UNCONTROLLED HAZARDOUS WASTE DISPOSAL SITES IN MISSOURI (REGISTRY) ANNUAL REPORT

Ms. Pia Capell, Superfund Section, provided the Commission with an update and PowerPoint presentation regarding the annual Registry report. She went over the different lass/levels the sites were assigned to and noted that there were no significant changes during the preceding year.

Vice Chairman Foresman inquired as to whether a site automatically moved up the scale when actions were completed at a site. Ms. Capell responded.

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.

7. COMMISSION REPORT

Ms. Amy Poos, Public Information Officer, addressed the Commission and provided a quick overview of the July through December 2017, Commission Report. Ms. Poos elaborated on an earlier question regarding the pesticide collection efforts in Portageville.

Chairman Frakes inquired if these reports were being distributed to the extension centers, to which Ms. Poos replied that they were not. Commissioner Aull commented that the new format was greatly diminished and asked if they could revert to the old format. John Jurgensmeyer responded that staff would review old reports to determine what information may have been deleted in the new format. Commissioner Aull stated that the old format gave a better grasp on what was being accomplished, the demographics of the areas effected, who the stakeholders were, etc.

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.

8. LEGAL UPDATE

Ms. Jennifer Hernandez addressed the Commission and noted that there had been no new referrals to the AGO in the recent months. She noted that referrals were generally for financial responsibility at underground storage tank sites. Ms. Hernandez advised the Commissioners that they could email her with questions at any time.

Commissioner Aull inquired as to how many cases were currently with the AGO's office, with Ms. Hernandez responding that there were 20-30 older cases still being worked.

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

9. PUBLIC INQUIRIES AND ISSUES

The floor was opened to any public inquiries. Vice-Chairman Foresman noted that there were no requests to speak at this time,

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

10. FUTURE MEETINGS

It was noted that the next meeting was scheduled for Thursday, June 21, 2018.

*Commissioner Aull made a motion to adjourn the meeting, which was seconded by Commissioner Jordan. The meeting was adjourned at 10:52 a.m.*

Respectfully Submitted,

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Debra D. Dobson, Commission Assistant

APPROVED

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James Frakes, Chairman

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Date



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Reporter's Certificate

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(No exhibits were marked.)



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A P P E A R A N C E S

Also Present:

Mr. John D. Jurgensmeyer, Staff Director  
Ms. Debra D. Dobson, Commission Assistant

SIGNATURE INSTRUCTIONS: No signature required.

EXHIBIT INSTRUCTIONS: No exhibits were marked.

Court Reporter:  
Monnie S. Mealy, CCR, CSR, RPR  
Alaris Litigation Services  
3432 W. Truman Boulevard, Suite 207  
Jefferson City, MO 65109  
(573) 636-7551

1 TRANSCRIPT OF PROCEEDINGS

2 COMMISSIONER FORESMAN: I'd like to call  
3 the public hearing to order. The public hearing is  
4 not typically a forum for debate. Or of the  
5 issues, rather.

6 The purpose of this hearing is to provide  
7 the Department of Natural Resources and the public  
8 an opportunity to present testimony on the proposed  
9 recission from 10 CSR 25 and 10 CSR 26.

10 At the request of the Commission, the  
11 Department will first present testimony on the  
12 proposed recission.

13 Following their testimony, the public will  
14 be given the opportunity to comment on the proposed  
15 rule-making.

16 The sign-up sheet is provided at the back  
17 of the room for anyone in attendance at the  
18 hearing, and, in addition, the comment forms for  
19 those who wish to make any oral comments. Please  
20 fill out a comment form if you wish to be heard.

21 Additionally, we ask anyone who approaches  
22 the Commission to testify to please state their  
23 name and affiliation, if any, for the record and  
24 provide a business card available to the court  
25 reporter and to the Commission's Secretary.



1 MR. EIKEN: Thank you, Commissioners. I'm  
2 here to present the Department's testimony on these  
3 19 recissions through the Missouri Register.

4 Just some brief background on the reason  
5 for these recissions. This is -- essentially, the  
6 first step is part of our implementation of the red  
7 tape reduction process.

8 Some background on that. In January 2017,  
9 Governor Greitens issued Executive Order 17-03 that  
10 required agencies to review all of our regulations  
11 within the Code of State Regulations for the  
12 purpose of reducing regulations that unnecessarily  
13 burden individuals and businesses while doing  
14 little to protect or improve public health, safety  
15 and natural -- and our natural resources.

16 So for the Hazardous Waste Program during  
17 this review, one of the first things we identified  
18 was existing rules that -- that could be rescinded  
19 because they were no longer necessary.

20 And in complying with the Executive Order,  
21 I'm here to give the program the Department's  
22 testimony on these rules.

23 An overview of what we have, essentially,  
24 we have 19 proposed recissions before you today.  
25 Seventeen of those relate to the Drycleaning

1 Environmental Response Trust Fund. It's a program  
2 that we've had in place since the early 2000s.

3 But the statutory authority for that  
4 program expired last year, and we're essentially in  
5 the process of winding that program down. The  
6 monies have been spent. The sites have been  
7 cleaned up. And we don't need the rules anymore,  
8 so those rules fit -- fit the criteria that we were  
9 looking for as part of red tape reduction process.  
10 So that's 17 of the 19.

11 The other two are what we call  
12 organization rules and essentially kind of describe  
13 the Department, the Commission, the program and how  
14 -- how -- how it's structured, how the rules are  
15 structured and where the authority lies. And those  
16 two rules are being rescinded, but are being  
17 replaced by a single rule that covers the entire  
18 Department.

19 It's going to be published on April 2nd.  
20 So that's our plan for those two is rescind our two  
21 organizational rules, and they'll essentially be  
22 replaced by that single Department rule.

23 All of these rescissions were published in  
24 the Missouri Register on February 15th, Volume 43,  
25 No. 4 beginning on page 265. You have copies of

1 the language in your packet.

2 In the format of the proposed rescissions,  
3 you don't actually see the text of the rules that  
4 we're proposing to rescind. You would have to go  
5 to Missouri Code of State Regulations to see that  
6 text. But they were published on February 15th.

7 Today is the public hearing. The public  
8 comment period, as Commissioner Foresman indicated  
9 in the opening, ends on March 29th, seven days from  
10 today.

11 This is a list of the rules. You can see  
12 the first two are the organization rules, one for  
13 our hazardous waste rules, one for our underground  
14 storage tanks rule. And the remaining 17 all  
15 relate for the Drycleaning Environmental Response  
16 Trust Fund various topics.

17 Those 17 rules are found in 10 CSR 25  
18 Chapter 17. The statutory authority for those is  
19 found in Sections 260.900 to 260.960, RSMo. And  
20 the statute -- the statutory authority for that  
21 program expired last August.

22 So this is kind of one of the final pieces  
23 of phasing out that program. So we'll be proposing  
24 those for rescission.

25 And as I mentioned, the two organization

1 rules will be replaced by a single organization  
2 rule for the entire Department. Other programs and  
3 other Commissions are doing the same with their  
4 work -- respective organizational rules, so it's  
5 kind of a Department-wide effort to rescind all  
6 those various organization rules, write a single  
7 rule that covers the entire Department.

8 Here's the schedule for those 19  
9 rescissions. They were published February 15th.  
10 Today is the public hearing. The comment period  
11 ends one week from today, March 29th.

12 Essentially, that closes the public  
13 comment period and starts -- starts a clock for us  
14 to publish the final decision on these.

15 The next step has to happen within 60  
16 days. We have to get our final decision to the  
17 Joint Committee on Administrative Rules by May --  
18 by approximately May 28th to meet that deadline.

19 So we will -- after -- after the close of  
20 the public comment period one week from today, we  
21 will review any comments and make necessary changes  
22 and then initiate the process to get permission to  
23 file those orders of rule-making, bring those  
24 orders of rule-making back to the Commission for  
25 your approval before we present them to the Joint

1 Committee on Administrative Rules as the next  
2 official step in the process.

3 Based on that -- based on that schedule,  
4 we then wait 30 days after JCAR gets them before we  
5 file the final orders with the Secretary of State.  
6 That would have them published August 1st and  
7 effective September 30th.

8 So, essentially, that's all of our  
9 testimony. This is the first step of our red tape  
10 reduction efforts. These are kind of the early  
11 recissions is what we've been calling them in the  
12 Department.

13 I think every -- every division, every  
14 program has some rules proposed for early  
15 recission. And these were the ones that we first  
16 identified just simply due to the fact that the  
17 sunset date had come and gone for the DERT fund.

18 We don't need the rules anymore. And the  
19 two organizational rules are going to be replaced  
20 by a single Department rule.

21 So that's my -- that's all the testimony  
22 that I have. I'd be happy to answer any questions  
23 for the Commission on these proposed recissions.

24 COMMISSIONER FORESMAN: Any questions for  
25 Tim?

1           COMMISSIONER JORDAN: Yes. When you say  
2 early recissions, does that mean there's other  
3 proposed rules in the works or that you're looking  
4 at?

5           MR. EIKEN: Yes. Yes, Commissioner.  
6 Early recission, these -- these are kind of the  
7 first phase of our plan rules to implement red  
8 tape.

9           The next phase -- we're kind of at that  
10 stage where we have draft language to -- that we  
11 are preparing to file as proposed rule-making,  
12 proposed amendments.

13           And you'll have a public hearing on those  
14 proposed amendments once we have management  
15 approval and administration approval to file those.

16           And they're published in the Missouri  
17 Register. We anticipate having a hearing on those  
18 in September, at your September Commission meeting.

19           So that will be the next step, just --  
20 this first group is the first group going through  
21 the process. But they'll be followed up by those  
22 later -- later amendments kind of tentatively for  
23 the September Commission meeting. So --

24           COMMISSIONER JORDAN: Okay. Thank you.

25           MR. EIKEN: You're welcome.

1 COMMISSIONER FORESMAN: Any other  
2 comments? If not, thanks, Tim.

3 MR. EIKEN: All right. Thank you.

4 COMMISSIONER FORESMAN: Do we have anybody  
5 who had signed up to make comments on -- on this  
6 recission rule at this time? We don't?

7 Director, did you have any -- anything?

8 MR. JURGENSMEYER: No.

9 COMMISSIONER FORESMAN: If not -- yeah.  
10 As far as the public hearing goes, we can close the  
11 -- the public hearing at this point if -- again, no  
12 -- no comments from anybody in the room?

13 Again, you have until the 29th to make  
14 written comments with the Department. If not, then  
15 I'll have a motion to close the public hearing.

16 COMMISSIONER JORDAN: So moved.

17 COMMISSIONER AULL: So moved.

18 COMMISSIONER JORDAN: Second.

19 COMMISSIONER FORESMAN: Thank you. All  
20 those in favor, say I.

21 (All Commissioners said I.)

22 COMMISSIONER FORESMAN: Jamie?

23 COMMISSIONER FRAKES: I have no comment or  
24 questions.

25 COMMISSIONER FORESMAN: Okay. Do you

1 approve the motion to close the session -- the  
2 public hearing?

3 COMMISSIONER FRAKES: I do.

4 COMMISSIONER FORESMAN: Okay. Thank you.

5 The public hearing is closed.

6 (The proceedings were concluded at 10:20 a.m. on  
7 March 22, 2018.)

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PUBLIC HEARING 3/22/2018

<p><b>A</b></p> <p>a.m 1:16 3:15 14:6</p> <p>accepted 6:1</p> <p>accurately 15:12</p> <p>addition 5:18</p> <p>Additionally 5:21</p> <p>address 6:15</p> <p>administration 12:15</p> <p>Administrative 10:17 11:1</p> <p>affiliation 5:23</p> <p>agencies 7:10</p> <p>Alaris 4:22</p> <p>amendments 12:12,14,22</p> <p>answer 11:22</p> <p>anticipate 12:17</p> <p>anybody 13:4,12</p> <p>anymore 8:7 11:18</p> <p>approaches 5:21</p> <p>approval 10:25 12:15,15</p> <p>approve 14:1</p> <p>approximately 10:18</p> <p>April 8:19</p> <p>Assistant 4:4</p> <p>attendance 5:17</p> <p>August 9:21 11:6</p> <p>Aull 3:23 13:17</p> <p>authority 8:3,15 9:18,20</p> <p>available 5:24</p> <hr/> <p><b>B</b></p> <p>back 5:16 10:24</p> <p>background 7:4 7:8</p> <p>based 11:3,3</p> <p>began 1:16</p> <p>beginning 8:25</p> <p>BEHALF 1:14</p>	<p>Boulevard 4:23</p> <p>Box 6:6</p> <p>brief 7:4</p> <p>bring 10:23</p> <p>burden 7:13</p> <p>business 5:24</p> <p>businesses 7:13</p> <hr/> <p><b>C</b></p> <p>C 4:1</p> <p>call 5:2 8:11</p> <p>calling 11:11</p> <p>caption 15:10</p> <p>card 5:24</p> <p>CCR 4:22 15:20</p> <p>Certificate 2:4 15:1</p> <p>Certified 15:6,7</p> <p>certify 15:9</p> <p>changes 10:21</p> <p>Chapter 9:18</p> <p>City 3:18 4:23 6:7</p> <p>cleaned 8:7</p> <p>clock 10:13</p> <p>close 10:19 13:10,15 14:1</p> <p>closed 14:5</p> <p>closes 10:12</p> <p>Code 7:11 9:5</p> <p>come 11:17</p> <p>comment 5:14 5:18,20 6:10 9:8 10:10,13 10:20 13:23</p> <p>comments 5:19 6:1,5,8,11 10:21 13:2,5,12,14</p> <p>Commission 1:1 3:1 4:4 5:10 5:22 6:15 8:13 10:24 11:23 12:18,23</p> <p>Commission's 5:25</p> <p>Commissioner 3:22,22,23,23</p>	<p>5:2 9:8 11:24 12:1,5,24 13:1 13:4,9,16,17,18 13:19,22,23 13:25 14:3,4</p> <p>Commissioners 3:21 6:16 7:1 13:21</p> <p>Commissions 10:3</p> <p>Committee 10:17 11:1</p> <p>complying 7:20</p> <p>concluded 14:6</p> <p>conclusion 6:4</p> <p>Coordinator 6:17</p> <p>copies 8:25</p> <p>COUNTY 15:4</p> <p>court 4:21 5:24 15:7</p> <p>covers 8:17 10:7</p> <p>criteria 8:8</p> <p>CSR 4:22 5:9,9 9:17 15:20</p> <hr/> <p><b>D</b></p> <p>D 2:1 4:4,4</p> <p>date 11:17</p> <p>days 9:9 10:16 11:4</p> <p>deadline 10:18</p> <p>debate 5:4</p> <p>Debra 4:4</p> <p>decision 10:14 10:16</p> <p>Department 1:14 3:16 5:7,11 8:13,18,22 10:2,7 11:12,20 13:14</p> <p>Department's 6:19 7:2,21</p> <p>Department-... 10:5</p> <p>DERT 1:5 3:5 11:17</p>	<p>describe 8:12</p> <p>Director 4:4 6:3 6:5 13:7</p> <p>division 11:13</p> <p>Dobson 4:4</p> <p>doing 7:13 10:3</p> <p>draft 12:10</p> <p>Drycleaning 1:4 3:4 7:25 9:15</p> <p>due 11:16</p> <p>duly 6:24</p> <hr/> <p><b>E</b></p> <p>E 2:1 3:17 4:1,1</p> <p>E-mail 6:10</p> <p>early 8:2 11:10 11:14 12:2,6</p> <p>effective 11:7</p> <p>effort 10:5</p> <p>efforts 11:10</p> <p>Eiken 6:16,17,22 6:23 7:1 12:5 12:25 13:3</p> <p>Elm 3:17</p> <p>ends 9:9 10:11</p> <p>entire 8:17 10:2 10:7</p> <p>Environmental 1:4 3:4 8:1 9:15</p> <p>essentially 7:5 7:23 8:4,12,21 10:12 11:8</p> <p>Executive 7:9 7:20</p> <p>EXHIBIT 4:8</p> <p>exhibits 2:9 4:8</p> <p>existing 7:18</p> <p>expired 8:4 9:21</p> <hr/> <p><b>F</b></p> <p>fact 11:16</p> <p>far 13:10</p> <p>favor 13:20</p> <p>February 8:24 9:6 10:9</p> <p>file 10:23 11:5</p>	<p>12:11,15</p> <p>fill 5:20</p> <p>final 9:22 10:14 10:16 11:5</p> <p>first 5:11 6:24 7:6,17 9:12 11:9,15 12:7,20 12:20</p> <p>fit 8:8,8</p> <p>followed 12:21</p> <p>Following 5:13 6:4</p> <p>follows 6:25</p> <p>Foresman 3:22 5:2 9:8 11:24 13:1,4,9,19,22 13:25 14:4</p> <p>form 5:20</p> <p>format 9:2</p> <p>forms 5:18</p> <p>forth 15:10,13</p> <p>forum 5:4</p> <p>found 9:17,19</p> <p>Frakes 3:22 13:23 14:3</p> <p>Friday 3:14</p> <p>fully 15:12</p> <p>fund 1:5 3:5 8:1 9:16 11:17</p> <hr/> <p><b>G</b></p> <p>give 7:21</p> <p>given 5:14</p> <p>go 9:4</p> <p>goes 13:10</p> <p>going 8:19 11:19 12:20</p> <p>Good 6:16</p> <p>Governor 7:9</p> <p>Greitens 7:9</p> <p>group 12:20,20</p> <hr/> <p><b>H</b></p> <p>hand 15:15</p> <p>happen 10:15</p> <p>happy 11:22</p> <p>hazardous 1:1,6</p>
--	---	--	---	--

PUBLIC HEARING 3/22/2018

3:1,6 6:2,6,18 7:16 9:13 <b>health</b> 7:14 <b>heard</b> 5:20 <b>hearing</b> 1:12,16 3:11 5:3,3,6,18 6:2,4,14 9:7 10:10 12:13,17 13:10,11,15 14:2 14:5 <b>hereof</b> 15:10 <b>hereunto</b> 15:15 <b>HERNANDEZ</b> 6:21	10:5 11:10 12:6 12:9,22 <hr/> <b>L</b> <b>language</b> 9:1 12:10 <b>lies</b> 8:15 <b>list</b> 9:11 <b>Litigation</b> 4:22 <b>little</b> 7:14 <b>longer</b> 7:19 <b>looking</b> 8:9 12:3 <hr/> <b>M</b> <b>mail</b> 6:5,8 <b>management</b> 1:1 3:1 12:14 <b>March</b> 1:15 3:14 6:10,12 9:9 10:11 14:7 <b>marked</b> 2:9 4:8 <b>Mealy</b> 4:22 15:6 15:20 <b>mean</b> 12:2 <b>meet</b> 10:18 <b>meeting</b> 12:18 12:23 <b>mentioned</b> 9:25 <b>Michael</b> 3:22 <b>minutes</b> 6:14 <b>Missouri</b> 1:1 3:1 3:16 6:7 7:3 8:24 9:5 12:16 15:3,8 <b>MO</b> 3:18 4:23 <b>monies</b> 8:6 <b>Monnie</b> 4:22 15:6,20 <b>morning</b> 6:16 <b>motion</b> 13:15 14:1 <b>moved</b> 13:16,17	<b>natural</b> 1:14 3:16 5:7 7:15,15 <b>necessary</b> 7:19 10:21 <b>need</b> 8:7 11:18 <hr/> <b>O</b> <b>Office</b> 6:6 <b>official</b> 11:2 <b>Okay</b> 6:22 12:24 13:25 14:4 <b>once</b> 12:14 <b>ones</b> 11:15 <b>open</b> 6:14 <b>opening</b> 9:9 <b>opportunity</b> 5:8 5:14 <b>oral</b> 5:19 <b>order</b> 5:3 7:9 7:20 <b>orders</b> 10:23,24 11:5 <b>organization</b> 1:5 3:5 8:12 9:12 9:25 10:1,6 <b>organizational</b> 8:21 10:4 11:19 <b>OSAGE</b> 15:4 <b>overview</b> 7:23 <hr/> <b>P</b> <b>P</b> 4:1,1 <b>packet</b> 9:1 <b>page</b> 2:2 8:25 <b>pages</b> 15:13 <b>part</b> 7:6 8:9 <b>period</b> 6:10 9:8 10:10,13,20 <b>permission</b> 10:22 <b>personally</b> 15:9 <b>phase</b> 12:7,9 <b>phasing</b> 9:23 <b>pieces</b> 9:22 <b>place</b> 8:2 <b>plan</b> 8:20 12:7	<b>please</b> 5:19,22 6:2 <b>point</b> 13:11 <b>Post</b> 6:6 <b>postmarked</b> 6:9 <b>preceding</b> 15:13 <b>preparing</b> 12:11 <b>present</b> 3:21 4:3 5:8,11 6:18 7:2 10:25 15:9 <b>proceedings</b> 1:13 3:12 5:1 14:6 15:9,11 <b>process</b> 7:7 8:5 8:9 10:22 11:2 12:21 <b>Professional</b> 15:7,21 <b>program</b> 6:6,18 7:16,21 8:1,4,5 8:13 9:2,21,23 11:14 <b>Program's</b> 6:3 <b>programs</b> 10:2 <b>proposed</b> 5:8 5:12,14 6:19 7:24 9:2 11:14 11:23 12:3,11,12 12:14 <b>proposing</b> 9:4 9:23 <b>protect</b> 7:14 <b>provide</b> 5:6,24 6:2 <b>provided</b> 5:16 <b>public</b> 1:12 3:11 5:3,3,7,13 6:9 6:14 7:14 9:7,7 10:10,12,20 12:13 13:10,11 13:15 14:2,5 <b>publish</b> 10:14 <b>published</b> 8:19 8:23 9:6 10:9 11:6 12:16 <b>purpose</b> 5:6 7:12	<hr/> <b>Q</b> <b>questions</b> 11:22 11:24 13:24 <hr/> <b>R</b> <b>R</b> 4:1 <b>reason</b> 7:4 <b>received</b> 6:12 <b>recission</b> 1:4,5 3:4,5 5:9,12 9:24 11:15 12:6 13:6 <b>recissions</b> 6:20 7:3,5,24 8:23 9:2 10:9 11:11 11:23 12:2 <b>record</b> 5:23 <b>red</b> 7:6 8:9 11:9 12:7 <b>reducing</b> 7:12 <b>reduction</b> 7:7 8:9 11:10 <b>Register</b> 7:3 8:24 12:17 <b>Registered</b> 15:7 15:21 <b>regulations</b> 7:10 7:11,12 9:5 <b>relate</b> 7:25 9:15 <b>remaining</b> 9:14 <b>replaced</b> 8:17 8:22 10:1 11:19 <b>reporter</b> 4:21 5:25 15:6,7,8 15:21 <b>Reporter's</b> 2:4 15:1 <b>request</b> 5:10 <b>required</b> 4:7 7:10 <b>rescind</b> 8:20 9:4 10:5 <b>rescinded</b> 7:18 8:16 <b>resources</b> 1:14 3:16 5:7 7:15 <b>respective</b> 10:4
3:1,6 6:2,6,18 7:16 9:13 <b>health</b> 7:14 <b>heard</b> 5:20 <b>hearing</b> 1:12,16 3:11 5:3,3,6,18 6:2,4,14 9:7 10:10 12:13,17 13:10,11,15 14:2 14:5 <b>hereof</b> 15:10 <b>hereunto</b> 15:15 <b>HERNANDEZ</b> 6:21	10:5 11:10 12:6 12:9,22 <hr/> <b>L</b> <b>language</b> 9:1 12:10 <b>lies</b> 8:15 <b>list</b> 9:11 <b>Litigation</b> 4:22 <b>little</b> 7:14 <b>longer</b> 7:19 <b>looking</b> 8:9 12:3 <hr/> <b>M</b> <b>mail</b> 6:5,8 <b>management</b> 1:1 3:1 12:14 <b>March</b> 1:15 3:14 6:10,12 9:9 10:11 14:7 <b>marked</b> 2:9 4:8 <b>Mealy</b> 4:22 15:6 15:20 <b>mean</b> 12:2 <b>meet</b> 10:18 <b>meeting</b> 12:18 12:23 <b>mentioned</b> 9:25 <b>Michael</b> 3:22 <b>minutes</b> 6:14 <b>Missouri</b> 1:1 3:1 3:16 6:7 7:3 8:24 9:5 12:16 15:3,8 <b>MO</b> 3:18 4:23 <b>monies</b> 8:6 <b>Monnie</b> 4:22 15:6,20 <b>morning</b> 6:16 <b>motion</b> 13:15 14:1 <b>moved</b> 13:16,17	<b>natural</b> 1:14 3:16 5:7 7:15,15 <b>necessary</b> 7:19 10:21 <b>need</b> 8:7 11:18 <hr/> <b>O</b> <b>Office</b> 6:6 <b>official</b> 11:2 <b>Okay</b> 6:22 12:24 13:25 14:4 <b>once</b> 12:14 <b>ones</b> 11:15 <b>open</b> 6:14 <b>opening</b> 9:9 <b>opportunity</b> 5:8 5:14 <b>oral</b> 5:19 <b>order</b> 5:3 7:9 7:20 <b>orders</b> 10:23,24 11:5 <b>organization</b> 1:5 3:5 8:12 9:12 9:25 10:1,6 <b>organizational</b> 8:21 10:4 11:19 <b>OSAGE</b> 15:4 <b>overview</b> 7:23 <hr/> <b>P</b> <b>P</b> 4:1,1 <b>packet</b> 9:1 <b>page</b> 2:2 8:25 <b>pages</b> 15:13 <b>part</b> 7:6 8:9 <b>period</b> 6:10 9:8 10:10,13,20 <b>permission</b> 10:22 <b>personally</b> 15:9 <b>phase</b> 12:7,9 <b>phasing</b> 9:23 <b>pieces</b> 9:22 <b>place</b> 8:2 <b>plan</b> 8:20 12:7	<b>please</b> 5:19,22 6:2 <b>point</b> 13:11 <b>Post</b> 6:6 <b>postmarked</b> 6:9 <b>preceding</b> 15:13 <b>preparing</b> 12:11 <b>present</b> 3:21 4:3 5:8,11 6:18 7:2 10:25 15:9 <b>proceedings</b> 1:13 3:12 5:1 14:6 15:9,11 <b>process</b> 7:7 8:5 8:9 10:22 11:2 12:21 <b>Professional</b> 15:7,21 <b>program</b> 6:6,18 7:16,21 8:1,4,5 8:13 9:2,21,23 11:14 <b>Program's</b> 6:3 <b>programs</b> 10:2 <b>proposed</b> 5:8 5:12,14 6:19 7:24 9:2 11:14 11:23 12:3,11,12 12:14 <b>proposing</b> 9:4 9:23 <b>protect</b> 7:14 <b>provide</b> 5:6,24 6:2 <b>provided</b> 5:16 <b>public</b> 1:12 3:11 5:3,3,7,13 6:9 6:14 7:14 9:7,7 10:10,12,20 12:13 13:10,11 13:15 14:2,5 <b>publish</b> 10:14 <b>published</b> 8:19 8:23 9:6 10:9 11:6 12:16 <b>purpose</b> 5:6 7:12	<hr/> <b>Q</b> <b>questions</b> 11:22 11:24 13:24 <hr/> <b>R</b> <b>R</b> 4:1 <b>reason</b> 7:4 <b>received</b> 6:12 <b>recission</b> 1:4,5 3:4,5 5:9,12 9:24 11:15 12:6 13:6 <b>recissions</b> 6:20 7:3,5,24 8:23 9:2 10:9 11:11 11:23 12:2 <b>record</b> 5:23 <b>red</b> 7:6 8:9 11:9 12:7 <b>reducing</b> 7:12 <b>reduction</b> 7:7 8:9 11:10 <b>Register</b> 7:3 8:24 12:17 <b>Registered</b> 15:7 15:21 <b>regulations</b> 7:10 7:11,12 9:5 <b>relate</b> 7:25 9:15 <b>remaining</b> 9:14 <b>replaced</b> 8:17 8:22 10:1 11:19 <b>reporter</b> 4:21 5:25 15:6,7,8 15:21 <b>Reporter's</b> 2:4 15:1 <b>request</b> 5:10 <b>required</b> 4:7 7:10 <b>rescind</b> 8:20 9:4 10:5 <b>rescinded</b> 7:18 8:16 <b>resources</b> 1:14 3:16 5:7 7:15 <b>respective</b> 10:4
<hr/> <b>I</b> <b>identified</b> 7:17 11:16 <b>implement</b> 12:7 <b>implementati...</b> 7:6 <b>improve</b> 7:14 <b>indicated</b> 9:8 <b>individuals</b> 7:13 <b>initiate</b> 10:22 <b>INSTRUCTIO...</b> 4:7,8 <b>issued</b> 7:9 <b>issues</b> 5:5	<hr/> <b>M</b> <b>mail</b> 6:5,8 <b>management</b> 1:1 3:1 12:14 <b>March</b> 1:15 3:14 6:10,12 9:9 10:11 14:7 <b>marked</b> 2:9 4:8 <b>Mealy</b> 4:22 15:6 15:20 <b>mean</b> 12:2 <b>meet</b> 10:18 <b>meeting</b> 12:18 12:23 <b>mentioned</b> 9:25 <b>Michael</b> 3:22 <b>minutes</b> 6:14 <b>Missouri</b> 1:1 3:1 3:16 6:7 7:3 8:24 9:5 12:16 15:3,8 <b>MO</b> 3:18 4:23 <b>monies</b> 8:6 <b>Monnie</b> 4:22 15:6,20 <b>morning</b> 6:16 <b>motion</b> 13:15 14:1 <b>moved</b> 13:16,17	<hr/> <b>O</b> <b>Office</b> 6:6 <b>official</b> 11:2 <b>Okay</b> 6:22 12:24 13:25 14:4 <b>once</b> 12:14 <b>ones</b> 11:15 <b>open</b> 6:14 <b>opening</b> 9:9 <b>opportunity</b> 5:8 5:14 <b>oral</b> 5:19 <b>order</b> 5:3 7:9 7:20 <b>orders</b> 10:23,24 11:5 <b>organization</b> 1:5 3:5 8:12 9:12 9:25 10:1,6 <b>organizational</b> 8:21 10:4 11:19 <b>OSAGE</b> 15:4 <b>overview</b> 7:23 <hr/> <b>P</b> <b>P</b> 4:1,1 <b>packet</b> 9:1 <b>page</b> 2:2 8:25 <b>pages</b> 15:13 <b>part</b> 7:6 8:9 <b>period</b> 6:10 9:8 10:10,13,20 <b>permission</b> 10:22 <b>personally</b> 15:9 <b>phase</b> 12:7,9 <b>phasing</b> 9:23 <b>pieces</b> 9:22 <b>place</b> 8:2 <b>plan</b> 8:20 12:7	<hr/> <b>Q</b> <b>questions</b> 11:22 11:24 13:24 <hr/> <b>R</b> <b>R</b> 4:1 <b>reason</b> 7:4 <b>received</b> 6:12 <b>recission</b> 1:4,5 3:4,5 5:9,12 9:24 11:15 12:6 13:6 <b>recissions</b> 6:20 7:3,5,24 8:23 9:2 10:9 11:11 11:23 12:2 <b>record</b> 5:23 <b>red</b> 7:6 8:9 11:9 12:7 <b>reducing</b> 7:12 <b>reduction</b> 7:7 8:9 11:10 <b>Register</b> 7:3 8:24 12:17 <b>Registered</b> 15:7 15:21 <b>regulations</b> 7:10 7:11,12 9:5 <b>relate</b> 7:25 9:15 <b>remaining</b> 9:14 <b>replaced</b> 8:17 8:22 10:1 11:19 <b>reporter</b> 4:21 5:25 15:6,7,8 15:21 <b>Reporter's</b> 2:4 15:1 <b>request</b> 5:10 <b>required</b> 4:7 7:10 <b>rescind</b> 8:20 9:4 10:5 <b>rescinded</b> 7:18 8:16 <b>resources</b> 1:14 3:16 5:7 7:15 <b>respective</b> 10:4	
<hr/> <b>J</b> <b>Jamie</b> 3:22 13:22 <b>January</b> 7:8 <b>JCAR</b> 11:4 <b>Jefferson</b> 3:18 4:23 6:7 <b>John</b> 4:4 6:3 <b>Joint</b> 10:17,25 <b>Jordan</b> 3:23 12:1,24 13:16 13:18 <b>Jurgensmeyer</b> 4:4 6:3 13:8	<hr/> <b>M</b> <b>mail</b> 6:5,8 <b>management</b> 1:1 3:1 12:14 <b>March</b> 1:15 3:14 6:10,12 9:9 10:11 14:7 <b>marked</b> 2:9 4:8 <b>Mealy</b> 4:22 15:6 15:20 <b>mean</b> 12:2 <b>meet</b> 10:18 <b>meeting</b> 12:18 12:23 <b>mentioned</b> 9:25 <b>Michael</b> 3:22 <b>minutes</b> 6:14 <b>Missouri</b> 1:1 3:1 3:16 6:7 7:3 8:24 9:5 12:16 15:3,8 <b>MO</b> 3:18 4:23 <b>monies</b> 8:6 <b>Monnie</b> 4:22 15:6,20 <b>morning</b> 6:16 <b>motion</b> 13:15 14:1 <b>moved</b> 13:16,17	<hr/> <b>O</b> <b>Office</b> 6:6 <b>official</b> 11:2 <b>Okay</b> 6:22 12:24 13:25 14:4 <b>once</b> 12:14 <b>ones</b> 11:15 <b>open</b> 6:14 <b>opening</b> 9:9 <b>opportunity</b> 5:8 5:14 <b>oral</b> 5:19 <b>order</b> 5:3 7:9 7:20 <b>orders</b> 10:23,24 11:5 <b>organization</b> 1:5 3:5 8:12 9:12 9:25 10:1,6 <b>organizational</b> 8:21 10:4 11:19 <b>OSAGE</b> 15:4 <b>overview</b> 7:23 <hr/> <b>P</b> <b>P</b> 4:1,1 <b>packet</b> 9:1 <b>page</b> 2:2 8:25 <b>pages</b> 15:13 <b>part</b> 7:6 8:9 <b>period</b> 6:10 9:8 10:10,13,20 <b>permission</b> 10:22 <b>personally</b> 15:9 <b>phase</b> 12:7,9 <b>phasing</b> 9:23 <b>pieces</b> 9:22 <b>place</b> 8:2 <b>plan</b> 8:20 12:7	<hr/> <b>Q</b> <b>questions</b> 11:22 11:24 13:24 <hr/> <b>R</b> <b>R</b> 4:1 <b>reason</b> 7:4 <b>received</b> 6:12 <b>recission</b> 1:4,5 3:4,5 5:9,12 9:24 11:15 12:6 13:6 <b>recissions</b> 6:20 7:3,5,24 8:23 9:2 10:9 11:11 11:23 12:2 <b>record</b> 5:23 <b>red</b> 7:6 8:9 11:9 12:7 <b>reducing</b> 7:12 <b>reduction</b> 7:7 8:9 11:10 <b>Register</b> 7:3 8:24 12:17 <b>Registered</b> 15:7 15:21 <b>regulations</b> 7:10 7:11,12 9:5 <b>relate</b> 7:25 9:15 <b>remaining</b> 9:14 <b>replaced</b> 8:17 8:22 10:1 11:19 <b>reporter</b> 4:21 5:25 15:6,7,8 15:21 <b>Reporter's</b> 2:4 15:1 <b>request</b> 5:10 <b>required</b> 4:7 7:10 <b>rescind</b> 8:20 9:4 10:5 <b>rescinded</b> 7:18 8:16 <b>resources</b> 1:14 3:16 5:7 7:15 <b>respective</b> 10:4	
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PUBLIC HEARING 3/22/2018

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SPECIAL SESSION  
HAZARDOUS WASTE MANAGEMENT COMMISSION  
May 4, 2018; 1:30 P.M.  
1730 E. Elm Street  
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 phone line, for those Commissioners calling in to today's meeting, was opened at 1:25 p.m.

COMMISSIONERS PRESENT BY PHONE

Vice-Chairman Jamie Frakes  
Vice-Chairman Michael Foresman  
Commissioner Mark Jordan  
Commissioner Elizabeth Aull

Chairman Frakes called the Special Session to order at approximately 1:30 p.m.

A roll call was taken of the Commissioners. Chairman Jamie Frakes Vice-Chairman Michael Foresman, Commissioner Elizabeth Aull and Commissioner Mark Jordan, were present by phone. A quorum was established.

1. COMMISSION VOTE ON THE RESCISSION OF THE DRYCLEANING ENVIRONMENTAL RESPONSE TRUST FUND (DERT) RULES AND THE RESCISSION OF THE "ORGANIZATION" RULE FOR THE HAZARDOUS WASTE AND TANKS RULES.

Vice-Chairman Michael Foresman made a motion to adopt the rescission of the DERT Rules following the sunset of the fund, in addition to the rescission of the Organization chapter for the Hazardous Waste and Tanks rule. Commissioner Aull seconded the motion. There was no discussion. The decision was certified by the signature of all Commissioners.

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

Vice-Chairman Michael Foresman made a motion to modify the rescission of the DERT Rules following the sunset of the fund, in addition to the rescission of the Organization chapter for the Hazardous Waste and Tanks rule. There was no second on the motion and the Commission failed to move on the motion to modify. There was no discussion.

There were no additional motions on the matter before the Commission.

Commissioner Aull made a motion to adjourn at 1:37. The motion was seconded by Vice-Chairman Michael Foresman. The meeting was adjourned.

Respectfully Submitted,

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Debra D. Dobson, Commission Assistant

APPROVED

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Jamie Frakes, Chairman

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Date

## **Hazardous Waste Management Commission Meeting**

**September 13, 2018**

**Agenda Item # 3**

### **Public Hearing – Proposed Amendments and Rescissions for Rules in Title 10 Divisions 25 and 26**

#### **Issue:**

The Missouri Department of Natural Resources recently reviewed all of its regulations as part of a process to reduce the amount of red tape found in Missouri regulations. Part of that process was identifying existing rules that are no longer necessary or that contain requirements that are no longer necessary and taking the steps to rescind or amend those rules.

Today's hearing is on a total of seventeen proposed amendments and two proposed rescissions. Sixteen proposed amendments and the two proposed rescissions were published in the July 16<sup>th</sup> Missouri Register and one proposed amendment was published in the August 1<sup>st</sup> Missouri Register.

Upon the closing of the public comment period the Department will respond to comments received and prepare an Order of Rulemaking for each of the proposed amendments and rescissions. The Orders of Rulemaking for each rule will be brought before the Commission, requesting approval to file, at a future commission meeting.

#### **Recommended Action:**

The Commission to hear testimony on the following proposed amendments and rescissions:

- 10 CSR 25-2.010, 2.020, 3.260, 4.261, 5.262, 6.263, 7.264, 7.265, 7.266, 7.270, 8.124, 9.020, 10.010, 11.279, 12.010, 13.010, 15.010, and 16.273
- 10 CSR 26-2.080

#### **Presented by:**

Mr. Tim Eiken – Rule Coordinator, HWP

# OPENING STATEMENT

**Hazardous Waste Management Commission Meeting  
September 13, 2018**

**Opening Statement for the Public Hearing on the proposed amendments and rescissions in Title 10, Division 25 and Division 26 of the Code of State Regulations (10 CSR 25 and 10 CSR 26).**

I hereby call this public hearing to order. A public hearing is not typically a forum for debate of the issues. Rather, the purpose of this hearing is to provide the Department of Natural Resources and the public an opportunity to present testimony on the proposed amendments and rescissions in 10 CSR 25 and 10 CSR 26.

At the request of the Commission, the Department will first present testimony on the proposed rescissions. Following their testimony, the public will be given the opportunity to comment on the proposed rulemaking. A sign-up sheet is provided at the back of the room for anyone in attendance at the hearing, in addition to comment forms for those who wish to make any oral comments. Please fill out a comment form if you wish to be heard. This will aid us in recognizing speakers and calling them to testify. Additionally, we ask anyone who approaches the Commission to testify to please state their name and affiliation, if any, for the record and provide a business card, if available, to the court reporter and to the commission secretary.

Written comments will also be accepted at this hearing. Please provide them to the Hazardous Waste Program's Director, John Jurgensmeyer. Following the conclusion of the hearing, comments may be submitted by mail to the Director of the Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102. Comments submitted by mail must be postmarked on or before the end of the public comment period, on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov) and must also be received no later than September 20, 2018.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 2—Commission Procedures**

**PROPOSED AMENDMENT**

**10 CSR 25-2.010 Voting Procedures.** The commission is amending the rule purpose and sections (2) and (5).

*PURPOSE:* The commission proposes to amend this rule as part of the department's process of reviewing rules for unnecessary requirements and restrictive words. The commission proposes to amend the purpose statement of the rule to eliminate unnecessary restrictive words.

*PURPOSE:* The purpose of this rule is to define the procedures [that must] to be followed by commission members when considering hazardous waste management variances, appeals, or orders and related issues.

(2) The member [shall be] is excluded from voting on the matter at issue unless s/he fully advises the commission of the interest and receives a determination from the commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the state expects from him/her. Fully advises means explains in detail in a signed, written statement available for public inspection. Official relationship includes, but is not limited to, corporate officer, employee, retiree, or similar affiliation.

(5) If a quorum of commissioners is not present at the time of a public hearing published for rulemaking and it is necessary to delay the public hearing due to the lack of a quorum, the department [shall—] will issue a news release announcing the new time, date and location of the public hearing and include in that news release the new submittal date for written public comments.

(A) Issue a news release announcing the new time, date and location of the public hearing; and

(B) Include in that news release the new submittal date for written public comments.]

*AUTHORITY:* sections 260.365, 260.370, 260.400, and 260.437, RSMo [1986 and 260.370 RSMo Supp. 1989] 2016. Original rule filed Sept. 7, 1978, effective Feb. 16, 1979. Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31, 1990. Amended: Filed June 12, 2018.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to

*tim.eiken@dnr.mo.gov.* Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 2—Commission Procedures**

**PROPOSED RESCISSION**

**10 CSR 25-2.020 Hazardous Waste Management Commission Appeals and Requests for Hearings.** This rule described the process for appealing department decisions to the Administrative Hearing Commission.

*PURPOSE:* This rule is being rescinded because the rule restates information already found in the statute and is therefore not necessary.

*AUTHORITY:* sections 260.370, 621.250 and 640.013, RSMo Supp. 2006. Original rule filed March 15, 2007, effective Dec. 30, 2007. Rescinded: Filed June 12, 2018.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to *tim.eiken@dnr.mo.gov.* Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 3—Hazardous Waste Management System:  
General**

**PROPOSED AMENDMENT**

**10 CSR 25-3.260 Definitions, Modifications to Incorporations and Confidential Business Information.** The commission proposes to amend sections (1), (2), and (3) of the rule.

*PURPOSE:* All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our

*natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.*

(1) The regulations set forth in 40 CFR part 260, July 1, 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, and the changes made at 78 FR 0, July 31, 2013, are incorporated by reference, except for the changes made at 70 FR 53453, September 8, 2005, [and 73 FR 64667 to 73 FR 64788, October 30, 2008,] subject to the following additions, modifications, substitutions, or deletions. This rule does not incorporate any subsequent amendments or additions.

(A) Except where otherwise noted in sections (2) and (3) of this rule or elsewhere in 10 CSR 25, any federal agency, administrator, regulation, or statute that is referenced in 40 CFR parts 260–270, 273, and 279, and incorporated by reference in 10 CSR 25, shall be deleted and in its place add the comparable state department, director, rule, or statute. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* rules control.

1. “Director” *[shall be]* is substituted for “Administrator” or “Regional Administrator” except where those terms are defined in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25.

2. “Missouri Department of Natural Resources” *[shall be]* is substituted for “EPA,” “U.S. EPA,” or “U.S. Environmental Protection Agency” except where those terms appear in definitions in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25.

3. “Section 260.395.15, RSMo,” *[shall be]* is substituted for “Section 3005(e) of RCRA.”

4. “Sections 260.375(9), 260.380.1(9), 260.385(7), and 260.390(7), RSMo,” *[shall be]* is substituted for “Section 3007 of RCRA.”

5. “Sections 260.410 and 260.425, RSMo,” *[shall be]* is substituted for “Section 3008 of RCRA.”

6. “10 CSR 25-3.260” *[shall be]* is substituted for any reference to 40 CFR part 260.

7. “10 CSR 25-4.261” *[shall be]* is substituted for any reference to 40 CFR part 261.

8. “10 CSR 25-5.262” *[shall be]* is substituted for any reference to 40 CFR part 262.

9. “10 CSR 25-6.263” *[shall be]* is substituted for any reference to 40 CFR part 263.

10. “10 CSR 25-7.264” *[shall be]* is substituted for any reference to 40 CFR part 264.

11. “10 CSR 25-7.265” *[shall be]* is substituted for any reference to 40 CFR part 265.

12. “10 CSR 25-7.266” *[shall be]* is substituted for any reference to 40 CFR part 266.

13. “10 CSR 25-7.268” *[shall be]* is substituted for any reference to 40 CFR part 268.

14. “10 CSR 25-7.270” *[shall be]* is substituted for any reference to 40 CFR part 270.

15. “10 CSR 25-8.124” *[shall be]* is substituted for any reference to 40 CFR part 124.

16. “10 CSR 25-11.279” *[shall be]* is substituted for any reference to 40 CFR part 279.

17. “10 CSR 25-16.273” *[shall be]* is substituted for any reference to 40 CFR part 273.

18. “Sections 260.350–260.434, RSMo *[shall be]* is substituted for “Subtitle C of RCRA Act,” or “RCRA,” except where those terms are defined in 40 CFR 260.10, incorporated in this rule.

19. “Section 260.380.1(1), RSMo *[shall be]* is substituted for “Section 3010 of RCRA.”

20. “Section 260.420, RSMo” *[shall be]* is substituted for “Section 7003 of RCRA.”

21. “Waste within the meaning of section 260.360(21), RSMo,” *[shall be]* is substituted for “solid waste within the meaning of sec-

tion 1004(27) of RCRA.” Residual materials specified as wastes under section 260.360(21), RSMo, *[shall]* means any spent materials, sludges, by-products, commercial chemical products, or scrap metal that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

22. “Section 260.360(9), RSMo,” *[shall be]* is substituted for “Section 1004(5) of RCRA.”

23. “Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, 10 CSR 25-3.260(1)(B), and 10 CSR 25-7.270(2)(B)” *[shall be]* are substituted for any reference to the Federal Freedom of Information Act (5 U.S.C. 552(a) and (b)), 40 CFR part 2, or Section 3007(b) of RCRA.

24. All quantities of solid waste which are defined as hazardous waste pursuant to 10 CSR 25-4 are hazardous waste and are regulated under sections 260.350–260.434, RSMo, and 10 CSR 25. A person shall manage all hazardous waste which is not subject to requirements in 10 CSR 25 in accordance with subsection 260.380.1/2/3, RSMo. When a person accumulates one hundred kilograms (100 kg) of nonacute hazardous waste or one kilogram (1 kg) of acutely hazardous waste or the aggregate of one hundred kilograms (100 kg) of acute and nonacute hazardous waste, whichever first occurs, that person is subject to the provisions in 10 CSR 25. This provision is in addition to the calendar-month generation provisions in 40 CFR 261.5 which are incorporated by reference and modified in 10 CSR 25-4.261(2)(A).

25. The term variance in 10 CSR 25 means an action of the commission pursuant to section 260.405, RSMo. In any case where a federal rule that is incorporated by reference in 10 CSR 25 uses the term variance but the case-by-case decision or action of the department or commission does not meet the description of a variance pursuant to section 260.405, RSMo, the decision or action *[shall]* will be considered an exception or exemption based on the conditions set forth in the federal regulation incorporated by reference or the omission from regulation.

26. The rules of grammatical construction in 40 CFR 260.3 incorporated by reference in this rule *[shall]* also apply to the incorporated text of 40 CFR parts 266 and 270 and to 10 CSR 25.

(2) This section sets forth specific modifications to the regulations incorporated in section (1) of this rule. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, changes to 40 CFR part 260 subpart A will be located in subsection (2)(A) of this rule.)

(A) The following are changes to 40 CFR part 260 subpart A incorporated in this rule:

1. Confidential business information and availability of information. 40 CFR 260.2 is not incorporated in this rule. In lieu of those provisions, the following *[shall apply]* applies to confidential business information and the availability of information:

A. Any information provided to the department under 10 CSR 25 will be made available to the extent and in the manner authorized by Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, subsection (1)(B) and 10 CSR 25-7.270(2)(B)2. as applicable; **and**

B. Any person who submits information to the department in accordance with 10 CSR 25 may assert a claim of business confidentiality covering a part or all of that information by including a letter with the information which requests protection of specific information from disclosure. Information covered by this claim will be disclosed by the department to the extent and by means of the procedures set forth in Chapter 610, RSMo. However, if no claim accompanies the information when it is received by the department, the information may be made available to the public without further notice to the person submitting it. The department will respond to requests for protection of business information within twenty (20) business days[; and].

*[C. The department will respond to requests for information within three (3) business days except as provided in*

*Chapter 610, RSMo, and except as allowed for reasonable cause in accordance with Chapter 610, RSMo. When the period for document production must exceed three (3) business days for reasonable cause, the department will provide the document within no more than twenty (20) business days.]*

(3) Missouri Specific Definitions. Definitions of terms used in 10 CSR 25. This section sets forth definitions which modify or add to those definitions in 40 CFR parts 60, 260–270, 273, and 279 and 49 CFR parts 40, 171–180, 383, 387, and 390–397.

(I) Definitions beginning with the letter I.

1. Identification number means the unique code assigned to each hazardous waste, each hazardous waste generator, transporter, or facility[, or resource recovery] facility pursuant to these rules.

2. International Registration Plan, referred to as IRP, is a system of reporting and apportioning fees to states and other jurisdictions based on the percentage of mileage accumulated while conducting business in those states or jurisdictions.

(R) Definitions beginning with the letter R.

1. RCRA means the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901–6991.

2. Registry means the Missouri Registry of Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites.

3. Remedial action means any action at a hazardous waste site to protect the public health and environment. These actions may include, but are not limited to: storage; confinement; perimeter protection using dikes, trenches, or ditches; clay cover; neutralization; cleanup of hazardous waste, hazardous substances, or contaminated materials; recycling or reuse; diversion; destruction; segregation of reactive materials; repair or replacement of leaking containers; collection of leachate and runoff; on-site treatment or incineration; provision of alternative water supplies; any monitoring reasonably [required] needed to assure that these actions protect the public health and environment; or any combination of these actions.

4. Remedial action plan means the specific procedures to be followed in implementation of any remedial action and all necessary, related procedures including, but not limited to, safety, analysis, sampling, handling, packaging, storing, removing, transporting, labeling, registering, and site security. A remedial action plan has a defined endpoint, agreed to in advance, which will complete the plan. Additional remedial actions may be necessary after completion of a remedial action plan dependent upon results of sample analysis or development of new information.

[5. Resource recovery means the reclamation of energy or materials from waste, its reuse, or its transformation into new products which are not wastes.]

[6.]5. Responsible party means any person(s) liable for costs of removal actions or remedial action or other response costs or damages pursuant to Section 107 of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9607–9657 as amended by P.L. 99-499 Superfund Amendments, and Reauthorization Act of 1986, or any current owners or other person willing to assume responsibility.

(W) Definitions beginning with the letter W.

1. Waste means any material for which no use or sale is intended and which will be discarded or any material which has been or is being discarded. Waste [shall] also means certain residual materials which may be sold for purposes of energy or materials reclamation, reuse, or transformation into new products which are not wastes.

*AUTHORITY: sections 260.370 and 260.395, RSMo [Supp. 2013] 2016. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500)*

*in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

## **Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 4—Methods for Identifying Hazardous Waste**

### **PROPOSED AMENDMENT**

**10 CSR 25-4.261 Methods for Identifying Hazardous Waste.** The commission proposes to amend sections (1) and (2) of the rule.

*PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.*

(1) The regulations set forth in 40 CFR part 261, July 1, 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, and the changes made at 78 FR [O] 46447, July 31, 2013, 80 FR 1693, January 13, 2015, and 83 FR 24664, May 30, 2018, are incorporated by reference, except for the changes made at 55 FR 50450, December 6, 1990, 56 FR 27332, June 13, 1991, 60 FR 7366, February 7, 1995, 63 FR 33823, June 19, 1998, 70 FR 53453, September 8, 2005, [73 FR 64667 to 73 FR 64788, October 30, 2008,] and 73 FR 77954, December 19, 2008. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) [shall apply] applies in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent [shall] rules control.

(2) This section sets forth specific modifications of the regulations incorporated in section (1) of this rule. A person [required] subject to identifying a hazardous waste shall comply with this section as it modifies 40 CFR part 261 as incorporated in this rule. (Comment: This section has been organized in order that all Missouri additions, changes, or deletions to any subpart of the federal regulation are noted within the corresponding subsection of this section. For example,

changes to 40 CFR part 261 subpart A will be located in subsection (2)(A) of this rule.)

(A) General. The following are changes to 40 CFR part 261 subpart A incorporated in this rule:

1. [In Table 1 of 40 CFR 261.2, add an asterisk in column 3, row 6, Reclamation of Commercial Chemical Products listed in 40 CFR 261.33 and add the following additional footnotes: "Note 2. Commercial chemical products listed in 40 CFR 261.33 are not solid wastes when the original manufacturer uses, reuses, or legitimately recycles the material in his/her manufacturing process"; "Note 3. Gasoline and diesel fuels are not solid wastes if they are legitimately used as fuels;"] **(Reserved)**

2. *(Reserved)*

3. *(Reserved)*

4. *(Reserved)*

5. *(Reserved)*

6. *(Reserved)*

7. 40 CFR 261.4(a)(16) is not incorporated in this rule (Note: The paragraph at 40 CFR 261.4(a)(16) added by 63 FR 33823, June 19, 1998, is the paragraph not incorporated by 10 CSR 25-4.261(2)(A)9.);

8. [40 CFR 261.4(a)(20) and (21) are not incorporated in this rule;] **(Reserved)**

9. A generator shall submit the information [required] in 40 CFR 261.4(e)(2)(v)(C) as incorporated in this rule to the department along with the Generator's Hazardous Waste Summary Report [required] in 10 CSR 25-5.262(2)(D)1.;

10. The changes to 40 CFR 261.5, special requirements for hazardous waste generated by conditionally exempt small quantity generators, incorporated in this rule are as follows:

A. The modification set forth in 10 CSR 25-3.260(1)(A)24. applies in this rule in addition to other modifications set forth;

B. 40 CFR 261.5(g)(2) is not incorporated in this rule;

11. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 261.6(a)(3)(i), as incorporated in this rule. The state may not assume authority from the Environmental Protection Agency (EPA) to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies;

12. *(Reserved)*

13. *(Reserved)*

14. *(Reserved)*

15. [The resource recovery of hazardous waste is regulated by 10 CSR 25-9.020. An owner or operator of a facility that uses, reuses, or recycles hazardous waste shall be certified under 10 CSR 25-9 or permitted under 10 CSR 25-7, unless otherwise excluded. Therefore, the parenthetical text in 40 CFR 261.6(c)(1) is not incorporated in this rule;] and **(Reserved)**

16. In accordance with section 260.432.5(2), RSMo, used cathode ray tubes (CRTs) may not be placed in a sanitary landfill, except as permitted by section 260.380.3, RSMo.

**AUTHORITY:** section 260.370, RSMo [Supp. 2013] 2016. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 14, 2018.

**PUBLIC COST:** This proposed amendment will cost public entities two hundred three thousand six hundred ninety-eight dollars (\$203,698) annually in the aggregate. These costs are detailed in the attached public entity fiscal note for this rule.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov). Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Rule Number and Name:	10 CSR 25-4.261, Identification of Hazardous Waste
Type of Rulemaking:	Amendment

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	Loss of \$203,698 annually in hazardous waste tonnage fees for recycled hazardous secondary material no longer defined as hazardous waste
Total annual loss to Department of Natural Resources	\$203,698

**III. Worksheet**

**Loss of hazardous waste fees on excluded material**

In-State Waste Fee reduced by \$152,948  
Registration Renewal Fee reduced by \$50,750.00

Total loss of hazardous waste fees = \$152,948 + \$50,750 = \$203,698

**IV. Assumptions**

1. Approximately 20 facilities operate under resource recovery certificates. The Department assumes that all 20 facilities will choose to operate under one of the exclusions available to hazardous waste generators in the federal Definition of Solid Waste rule proposed for adoption. The decreased revenue associated with these facilities is addressed in the fiscal note for the proposed rescission of 10 CSR 25-9.020 and is not included here
2. Hazardous waste fees based on the amount of hazardous waste generated would no longer apply to hazardous secondary materials recycled under one of the exclusions proposed for adoption as this material is not defined as hazardous waste

3. Loss of hazardous waste fees is based on the amount of fees charged for this material in FY 17 that would no longer be collected if the recycled material is no longer defined as hazardous waste
4. Although the number of generators claiming the exclusion, the amount of material recycled under one of the exclusions, and the associated fees will vary from year to year, the Department assumes a constant amount for purposes of this fiscal note
5. The calculations were made on the assumption that every generator that has a waste stream eligible to be excluded does claim the exclusion.
6. Waste streams included in the calculation:
  - a. Any waste stream with a management method code of H010, H020 or H039;
  - b. Any waste stream with the word "paint" in the description
  - c. Any waste stream containing a word on the high priority solvents listed that is part of the definition of solid waste rule.
7. Generators will direct that waste streams eligible for the exclusion will be handled in a manner that will allow them to claim the exclusion rather than continuing to have the waste handled in the manner that would not allow the exclusion to be claimed.
8. The calculations do not capture every waste stream that may be eligible to be excluded. Due to space limitations in the database, there may be many waste streams where a word that would put the waste stream in the excluded universe was not in the description entered into the database. The Department is not able to estimate to what extent that applies. The loss should be looked at as a minimum loss.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 5—Rules Applicable to Generators of Hazardous  
Waste**

**PROPOSED AMENDMENT**

**10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste.** The commission proposes to amend sections (1) and (2) of the rule.

*PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.*

(1) The regulations set forth in 49 CFR part 172, October 1, 2013, 40 CFR 302.4 and .5, July 1, 2013, and 40 CFR part 262, July 1, 2013, except subpart H, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall apply]* **applies** in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

(2) A generator located in Missouri, except as conditionally exempted in accordance with 10 CSR 25-4.261, shall comply with the requirements of this section in addition to the requirements incorporated in section (1). *[Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control.]* (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section.)

(A) General. The following registration requirements are additional requirements to, or modifications of, the requirements specified in 40 CFR part 262 subpart A:

1. In lieu of 40 CFR 262.12(a) and (c), a generator located in Missouri **shall** comply with the following requirements:

A. A person generating in one (1) month or accumulating at any one (1) time the quantities of hazardous waste specified in 10 CSR 25-4.261 and a transporter who is *[required]* **subject to [register] registration** as a generator under 10 CSR 25-6.263 shall register and is subject to applicable rules under 10 CSR 25-3.260–10 CSR 25-9.020 and 10 CSR 25-12.010; and

B. Conditionally exempt generators may choose to register and obtain Environmental Protection Agency (EPA) and Missouri identification numbers, but in doing so will be subject to any initial registration fee and annual renewal fee outlined in this chapter;

2. An owner or operator of a treatment, storage, **and** disposal, *[or resource recovery]* facility who ships hazardous waste from the facility shall comply with this rule;

3. The following constitutes the procedure for registering:

A. A person *[who is required to register]* **subject to registration** shall file a completed registration form furnished by the department. The department *[shall]* require an original ink signature on all registration forms before processing. In the event the department develops the ability to accept electronic submission of the registration form, the signature requirement will be consistent with the legally-accepted standards in Missouri for an electronic signature on documents. All generators located in Missouri **shall** use only the Missouri version of the registration form;

B. A person *[required to register]* **subject to registration** shall also complete and file an updated generator registration form if the information filed with the department changes;

C. The department may request additional information, including information concerning the nature and hazards associated with a particular waste or any information or reports concerning the quantities and disposition of any hazardous wastes as necessary to authorize storage, treatment, or disposal and to ensure proper hazardous waste management;

D. A person *[who is required to register]* **subject to generator registration**, and those conditionally-exempt generators who choose to register, shall pay a one hundred dollar (\$100) initial or reactivation registration fee at the time their registration form is filed with the department. If a generator site has an inactive registration, and a generator *[required to register]* **subject to registration** reactivates that registration, the generator shall file a registration form and pay the one hundred dollar (\$100) registration reactivation fee. The department *[shall]* **will** not process any form for an initial registration or reactivation of a registration if the one hundred dollar (\$100) fee is not included. Generators *[required to register]* **subject to registration** shall thereafter pay an annual renewal fee of one hundred dollars (\$100) in order to maintain their registration in good standing; and

E. *[Any]* **The department will immediately revoke the registration of any person** who pays the registration fee with what is found to be an insufficient check *[shall have their registration immediately revoked]*;

4. The following constitutes the procedure for registration renewal:

A. The calendar year *[shall]* constitute the annual registration period;

B. Annual registration renewal billings will be sent by December 1 of each year to all generators holding an active registration;

C. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but *[shall]* **does** not pay the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, *[they shall pay]* **the generator pays** the annual renewal fee;

D. **The department will administratively inactivate the registration of [A]any generator [required to register] subject to registration** who fails to pay the annual renewal fee by the due date specified on the billing *[shall]*, **and the generator will be [administratively inactivated and]** subject to enforcement action for failure to properly maintain their registration;

E. Generators administratively inactivated for failure to pay the renewal fee in a timely manner, who later in the same registration year pay the annual renewal fee, shall pay the fifteen percent (15%) late fee *[required by]* **in** section 260.380.4, RSMo, in addition to the one hundred dollar (\$100) annual renewal fee for each applicable registration year and shall file an updated generator registration form with the department before their registration is reactivated by the department;

F. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay the fifteen percent (15%) late fee *[required by]* **in** section 260.380.4, RSMo, in addition to the one hundred dollar (\$100) annual renewal fee and file an updated generator registration form with the department before their registration is reactivated by the department; and

G. **The department will immediately revoke the registration of [A]any person** who pays the annual renewal fee with what is found to be an insufficient check *[shall have their registration immediately revoked]*; and

5. The department may administratively inactivate the registration of generators that fail to pay any applicable hazardous waste fees and taxes in a timely manner after appropriate notice to do so.

(B) *(Reserved)* [The Manifest. Additional manifest and reporting requirements are set forth in subsections (2)(D) and (E). This subsection is applicable to all Missouri generators and to all other generators who deposit hazardous waste in Missouri. (Note: This section is not applicable to an out-of-state or international generator who is shipping hazardous waste through, in less than ten (10) days, but not depositing hazardous waste in Missouri. This subsection does not prevent a transporter from voluntarily carrying information in addition to the manifest. Any reference to the United States Environmental Protection Agency (EPA) form 8700-22 means the form as revised by EPA and approved by the federal Office of Management and Budget (OMB).]

[1. Generators must record either the total weight in kilograms or pounds or the specific gravity for wastes listed or measured in gallons, liters, or cubic yards.

2. Manifest reporting. This paragraph sets forth additional requirements for manifest reporting. The generator shall contract with the designated facility to return the completed manifest to the generator within thirty-five (35) days after the hazardous waste was accepted by the initial transporter.]

(C) Pretransport, Containerization, and Labeling Requirements.

[1. In addition to labeling containers used to accumulate hazardous waste in accordance with the requirements in 40 CFR 262.34(a)(2), (a)(3), and (d)(4), generators must also comply with either subparagraphs A. or B. below.

A. All containers used to accumulate hazardous waste must be labeled in accordance with applicable United States Department of Transportation labeling requirements in 49 CFR part 172 subpart E during the entire time the waste is accumulated on-site. If a generator determines that labeling a container with a capacity of less than one (1) gallon is not feasible, the generator shall affix the appropriate label(s) to the locker, rack, or other device used to hold or accumulate any such container; or

B. Clearly label each container with words that correctly identify the hazards of the contents of the container during the entire on-site storage period. Such words shall include one (1) or more of the following as defined in 40 CFR part 261 subparts C and D: Ignitable, Toxic, Corrosive, or Reactive. The label shall be white with black lettering or black with white lettering that is a minimum of one (1) inch in height. If a generator determines that labeling a container with a capacity of less than one (1) gallon is not feasible, the generator shall affix the appropriate label(s) to the locker, rack, or other device used to hold or accumulate any such container. Note that pursuant to 49 CFR 172.401, "No person may offer for transportation and no carrier may transport a package bearing any marking or label which by its color, design, or shape could be confused with or conflict with a label prescribed by this part."

2. In addition to labeling requirements for tanks used to accumulate hazardous waste in accordance with the requirements of 40 CFR 262.34(a)(3) and (d)(4), generators must also comply with the 2012 Edition of the National Fire Protection Association Standard NFPA 704: Standard System for the Identification of the Hazards of Materials for Emergency Response to identify the hazards of the tank contents. The 2012 edition of NFPA 704 is hereby incorporated by reference without any subsequent amendments or additions, and is published by the National Fire Protection Association, 1 Battery March Park, Quincy, MA, 02169-7471.

3. Satellite accumulation. As an alternative to compliance with the accumulation limits in 40 CFR 262.34(c)(1), generators who instead wish to store up to fifty-five (55) gallons of each non-acute hazardous waste stream, or up to

one (1) quart of each acutely hazardous waste stream in a satellite accumulation area may do so if they comply with the other applicable requirements of 40 CFR 262.34(c) and the following additional requirements:

A. The generator must notify the department that it has chosen to comply with the additional requirements in this section and must also re-notify at any time it changes this decision. Such notification must be made by submitting an updated Notification of Regulated Waste Activity Form. All satellite accumulation areas at the generator's location must operate under the same requirements;

B. The generator may not use more than one (1) container per wastestream;

C. Each container must be marked with its beginning date of satellite storage;

D. A container of hazardous waste stored in a satellite accumulation area pursuant to this paragraph 3. shall be removed from the satellite accumulation area within three (3) calendar days if any of the following occurs:

(I) One (1) year has passed since the accumulation start date;

(II) The container is full; or

(III) The container has reached its volume limit.

E. A container of hazardous waste removed from the satellite accumulation area pursuant to subparagraph D. above must be taken to the generator storage area, shipped off-site for proper hazardous waste management, or managed in accordance with an approved hazardous waste permit or certification at the site.

F. In lieu of 40 CFR 262.34(c)(2), during the three (3) day period referenced in subparagraph D. above, the generator may start a new satellite container for that wastestream if in compliance with all other requirements of paragraph 3. and 40 CFR 262.34(c)(1) as modified by this paragraph 3.]

[4.] 40 CFR 262.34(a)(1)(iii) is not incorporated in this rule.

[5. Generators who accumulate more than six thousand (6000) kilograms of ignitable or reactive hazardous waste may elect to comply with 10 CSR 25-7.264(2)(I) in lieu of 40 CFR 265.176.]

(D) Record Keeping and Reporting. In addition to requirements in 40 CFR 262.40, generators shall retain registration information [required] in subsection (2)(A) of this rule and the Generator's Hazardous Waste Summary Report [required] in paragraph (2)(D)1. of this rule for no fewer than three (3) years.

1. This paragraph establishes requirements for quarterly Generator's Hazardous Waste Summary Reports.

A. All generators [who are required to register] subject to registration in accordance with subsection (2)(A) of this rule shall complete a Generator's Hazardous Waste Summary Report[. This report shall be] that is completed on a form provided by the department or on a reproduction of the form provided by the department or in the same format as the form provided by the department after review and approval by the department.

B. A [P]erson[s] who does not ship any hazardous wastes or who makes only one (1) shipment of hazardous waste during the entire reporting year, July 1 through June 30, or [are] is defined as a small quantity generator for the entire reporting year, or [are] is defined as a large quantity generator and filing their report electronically in a manner prescribed by the department, may file an annual report by August 14 following the reporting year period. However, a person[s] who [are] is defined as a large quantity generator and [have] has more than one (1) shipment of hazardous waste during the reporting years, and does not file their report using the electronic method prescribed by the department, shall file quarterly. [Large quantity generators may submit an annual report electronically beginning with the reporting period of July 1, 2015-June 30, 2016, or sooner if the system for electronic reporting is in place prior to that reporting period.]

C. A generator who is registered with the department shall report the quantity, type, and status of all hazardous waste(s) shipped off-site during the reporting period on the Generator's Hazardous Waste Summary Report regardless of the destination of the shipment(s).

D. The Generator's Hazardous Waste Summary Report shall be signed and certified by an authorized representative as defined in 40 CFR 260.10 incorporated by reference in 10 CSR 25-3. The certification statement shall read as follows: "CERTIFICATION: I certify under penalty of law that I personally examined and am familiar with the information submitted on this form and all attached documents and, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." The handwritten signature of the authorized representatives shall follow this certification.

E. The generator shall submit the completed Generator's Hazardous Waste Summary Report within forty-five (45) days after the end of each reporting period. The reporting periods and submittal dates are as follows: January 1 through March 31, with a submittal date of May 14 of the same year; April 1 through June 30, with a submittal date of August 14 of the same year; July 1 through September 30, with a submittal date of November 14 of the same year; and October 1 through December 31, with a submittal date of February 14 of the following year.

F. A generator shall submit the information [required] in 40 CFR 261.4(e)(2)(v)(C) incorporated by reference in 10 CSR 25-4.261(1) to the department along with the completed Generator's Hazardous Waste Summary Report.

G. **[Generators failing] The department will administratively inactivate the registration of any generator that fails to file the [reports required by this rule shall have their registration administratively inactivated] Generator's Hazardous Waste Summary Report. [Their registration shall] The generator's registration will be reactivated after all [required] reporting is filed, applicable fees are paid, and an updated generator registration form is submitted to the department.**

2. Reporting requirements for small quantity generators. 40 CFR 262.44 is not incorporated in this rule.

(E) Exports of Hazardous Waste. This subsection modifies the incorporation of 40 CFR part 262 subpart E. The state cannot assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit acknowledgements of consent to the exporter. In addition, the annual reports and exception reports [required] in 40 CFR 262.55 and 262.56, incorporated in this rule, shall be filed with the EPA administrator [and copies shall be] **with copies** provided to the department. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 262.51, 262.52, 262.53, 262.54, 262.55, 262.56, and 262.57, as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies (for example, the federal Department of Transportation and the Bureau of the Census of the Department of Commerce).

(F) Imports of Hazardous Waste. The United States importer shall also comply with the following requirements:

1. In addition to registration requirements specified in this section, the United States importer shall register as generator in accordance with this section and [shall be responsible] **has responsibility** for compliance with all applicable requirements specified in this section. The United States importer shall register with the department as a generator, and four (4) weeks in advance of the date the waste is expected to enter the United States, [shall] specifically identify hazardous waste(s) intended to be imported by their EPA waste number(s) found in 40 CFR 261 and this section; and

2. The United States importer shall keep and maintain the following information on each shipment which is imported and make available upon departmental request:

A. If the waste is a mixed bulk shipment of multi-generator wastes, the individual original foreign generator's names and addresses and the wastes' technical chemical names from each source;

B. Quantity of waste from each imported source; and

C. List of EPA waste numbers found in 40 CFR 261 and this section which are applicable to the waste(s) from each source.

(J) Generator Fee and Taxes. A generator who is [required to register] **subject to registration** under this rule, unless otherwise exempted, shall pay fees and taxes in accordance with 10 CSR 25-12.010. **[Generators failing] The department will administratively inactivate the registration of any generator who fails to pay the fees, taxes, or applicable late fees outlined in 10 CSR 25-12.010 by the due date [shall have their registration administratively inactivated]. [Their] The department will reactivate the generator's registration [shall be reactivated] after all applicable fees, taxes, and late fees are paid and an updated generator registration form is submitted to the department.**

*AUTHORITY: sections 260.370[, RSMo Supp. 2013,] and [section] 260.380, RSMo [Supp. 2014] 2016. This rule was previously filed as 10 CSR 25-5.010. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 6—Rules Applicable to Transporters of  
Hazardous Waste**

**PROPOSED AMENDMENT**

**10 CSR 25-6.263 Standards for Transporters of Hazardous Waste.** The commission proposes to amend sections (1) and (2) of the rule.

*PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and*

*hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.*

(1) The regulations set forth in 40 CFR part 263, July 1, 2013; 49 CFR parts 171–180, November 1, 1990, and December 1, 1997; and 49 CFR parts 40, 383, 387, 390–397, October 1, 1990, and October 1, 1997, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference, except for 49 CFR 390.3(f)(2), which is not incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall apply]* **applies** in this rule in addition to any other modifications set forth in section (2) of this rule except that the modifications do not apply to the 49 CFR parts incorporated in this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

(2) A hazardous waste transporter shall comply with the requirements of this section in addition to those set forth in section (1). Any reference to a 40 CFR cite in this section *[shall]* mean as that provision is incorporated in 10 CSR 25. *[Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control.]* (Comment: This section has been organized in order within the corresponding subsection of this section. For example, the additional requirements being added to 40 CFR part 263 subpart A are found in subsection (2)(A).)

(A) In addition to the requirements in 40 CFR part 263 subpart A, the following *[shall apply]* **applies**:

1. In 40 CFR 263.10(a) and (c)(1), incorporated in this rule, substitute “the state of Missouri” for “United States”;

2. In the last paragraph of the note following 40 CFR 263.10(a), change “49 CFR parts 171 through 179” to “49 CFR parts 171 through 180 and parts 383, 387, and 390–397” and add the following to the note: “The parts of 49 CFR are incorporated to the extent that these regulations do not conflict with the laws and regulations of the state of Missouri, or, in the event the regulations conflict, the more stringent *[shall]* **regulations** control. The equipment used in the transportation of hazardous waste shall meet the standards of the Missouri Department of *[Economic Development's]* **Transportation's** Division of Motor Carrier and Railroad Safety, the United States Department of Transportation, *[or any combination of them,]* **and** the Federal Railroad Administration, **or any combination of them**, as applicable for the types of hazardous materials for which it will be used. The equipment to be used in the transportation of hazardous waste shall be compatible with that waste and *[shall be]* adequate to protect the health of humans and prevent damage to the environment”;

3. License requirements for power unit transporters of hazardous waste, used oil, or infectious waste. *[Transporters required by]* **In accordance with** 10 CSR 25-6.263, 10 CSR 25-11.279(2)(E)1., or 10 CSR 80-7.010(4), to be licensed by the department **hazardous waste transporters** shall comply with the following requirements:

A. Power unit transporters shall submit to the department an application for a license on a form furnished by the department. *The form shall be]* **and** completed with the following information:

(I) The applicant's name, address, location of the principal office, or place of business, and the legal owner of the applicant company;

(II) A description of the service proposed to be rendered;

(III) The applicant's Environmental Protection Agency (EPA) identification number;

(IV) The number of power units to be used;

(V) A certification that the applicant's equipment and operating procedures meet the standards of the Missouri Division of Motor Carrier and Railroad Safety, the Federal Department of Transportation (DOT), or the Federal Railroad Administration, or both;

(VI) A description of each power unit to include make, model, year, vehicle identification number (VIN), licensed vehicle weight, and state and number of the license plate. *Also required is]* **and** a description of the trailers (cargo box, van, tank) and maximum trailer capacities used by the transporter;

(VII) A disclosure statement for the applicant, principal corporate officers, and the holders of more than twenty percent (20%) of the applicant company. If any of these persons were involved in hazardous waste management before their association with the applicant company, the applicant shall submit this information to the department including the names of these persons and the names and locations of the companies with which they were associated; and

(VIII) For applicants who are not residents of Missouri, a written statement designating the director of the department as the authorized agent upon whom legal service may be made for all actions arising in Missouri from any operation of motor vehicles under authority of the department.

B. In addition to the completed application, an applicant shall submit each of the following:

(I) A fee as specified in 10 CSR 25-12.010;

(II) The insurance document(s) as specified in paragraph (2)(A)4. of this rule; and

(III) Statements, documents, or both, of the following, where applicable:

(a) If the applicant is a partnership, include an affidavit to this effect signed by the proprietor or include a copy of the partnership agreement. If no written partnership agreement has been entered into, include a statement summarizing the agreement between the parties which is signed by each of the partners and certified by a notary public;

(b) If the applicant is a Missouri corporation or a foreign corporation with authority to conduct business in Missouri or is a foreign corporation with facilities or employees in Missouri, a Certificate of Corporate Good Standing from the Missouri secretary of state *[shall be included.]* **and** *[I]*if the applicant is a nonresident corporation without facilities or employees in Missouri, a Certificate of Good Standing from the state or country of residence *[shall be included];* and

(c) If the applicant is conducting its business under an assumed or fictitious name, a certified copy of the registration with the Missouri secretary of state of the assumed or fictitious name *[shall be included].*

C. License renewal.

(I) **At least sixty (60) days prior to the expiration date of his/her current license,** *[A]*a hazardous waste transporter wishing to renew his/her license shall submit a license renewal application on a form furnished by the department *[and shall submit other applicable information, as specified in this section, to the department at least sixty (60) days prior to the expiration date of his/her current license. A Certificate of Corporate Good Standing must be submitted with the renewal. This certificate must have been issued in the twelve (12) months preceding the license expiration date. Insurance requirements must be satisfied as specified in paragraph (2)(A)4. of this rule except for other than power unit carriers. The renewal application shall be accompanied by a fee as specified in 10 CSR 25-12.],* **including a Certificate of Corporate Good Standing issued within the twelve (12) months preceding the license expiration date, documents that satisfy the insurance requirements in paragraph (2)(A)4. of this rule, except for other than power unit carriers, and a fee as specified in 10 CSR 25-12.**

D. Power unit additions, replacements, and temporary permits. Changes made to the power unit listings as shown on the current

license application or renewal form shall be reported to the department as follows: A power unit can be added by submitting a written description of the power unit to be added and paying a fee in accordance with 10 CSR 25-12.010. A power unit can be replaced for another without any charge by submitting a description of the original power unit and its replacement. A power unit can be issued a temporary permit for a thirty- (30-)/- day period by submitting a written description of the power unit and paying a fee in accordance with 10 CSR 25-12.010.

E. Proof of license. A transporter shall carry proof of license with each power unit transporting hazardous waste within Missouri. A legible copy of this certificate shall be in the possession of the driver of the power unit and *[shall be]* shown **upon demand** to representatives of the department, officers of the Missouri State Highway Patrol, and other law enforcement officials *[upon demand]*;

4. Insurance.

A. Transporters licensed in accordance with this chapter shall at all times have on file with the department a certification of public liability (bodily injury and property damage) insurance which *[shall]* include the required, uniform endorsements covering each motor vehicle in accordance with 49 CFR part 387 incorporated by reference in this rule. The minimum level of insurance coverage shall not be less than one (1) million dollars combined single limit. (Comment: The federal regulations at 49 CFR 387.9 set forth certain conditions which require five (5) million dollars coverage.)

B. The certificate of insurance shall *[state that the insurer has issued to the motor carrier a policy of insurance which, by endorsement, provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon the motor carrier by the provisions of the law of Missouri. The certificate shall be duly completed and executed by the insurer on Form E—Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance. The endorsements shall be attached to the insurance policy and shall form a part of that policy. The endorsements shall be made on Form F—Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsements. The certificate shall be duly completed and executed by the insurer. The surety bond shall be in the form set forth in Form G—Uniform Motor Carrier Bodily Injury and Property Damage Surety Bond. The bond shall be duly completed and executed by the surety and principal.]—*

**(I) State that the insurer has issued to the motor carrier a policy of insurance which, by endorsement, provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon the motor carrier by the provisions of the law of Missouri;**

**(II) Be duly completed and executed by the insurer on Form E—Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance;**

**(III) Be duly completed and executed by the insurer with the endorsements made on Form F—Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsements attached to the insurance policy and forming a part of that policy; and**

**(IV) A surety bond, duly completed and executed by the surety and principal, in the form set forth in Form G—Uniform Motor Carrier Bodily Injury and Property Damage Surety Bond.**

C. An insurer under the provisions of this rule shall submit to the department not fewer than thirty (30) days' notice of cancellation of motor carrier bodily injury and property damage liability insurance by filing with the department the form of notice set forth in Form K—Uniform Notice of Cancellation of Motor Carrier Insurance Policies. The notice shall be duly completed and executed by the insurer. A surety under the provisions of this rule shall give the department not fewer than thirty (30) days' notice of the cancellation of motor carrier bodily injury and property damage liability surety bond by filing with the department the form of notice set forth

in Form L—Uniform Notice of Cancellation of Motor Carrier Surety Bond. The notice shall be duly completed and executed by the surety or motor carrier.

D. Forms E, F, G, K, and L referred to in subparagraphs (2)(A)4.B. and C. of this rule are the standard forms determined by the National Association of Regulatory Utility Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act, 49 U.S.C. section 302(b)(2), 1994.

E. Before any policy of insurance will be accepted by the department, the insurance company issuing the policy or the carrier offering the same, upon request of the department, shall furnish evidence satisfactory to the department that the insurance company issuing the policy is duly authorized to transact business in Missouri and that it is financially able to meet the obligations of the policy offered.

F. All insurance certificates and surety bonds filed with the department shall remain on file with the department and shall not be removed except with the written permission of the director.

G. A new certificate of insurance shall be filed for reinstatement of insurance which has been canceled;

5. Vehicle marking. The transportation vehicle used to ship hazardous waste shall be marked in accordance with 49 CFR 390.21(b) and (c);

6. No hazardous waste shall be accepted for transport unless it has been properly loaded and secured in accordance with 49 CFR 177.834;

7. Incompatible wastes. A waste shall not be added to an unwashed or uncleaned container that previously held an incompatible material;

8. In addition to the requirements in 40 CFR 263.10(c)(1), add the following requirements: A transporter who accepts shipments of hazardous waste from a person not *[required to register]* **subject to registration** as a generator in accordance with 10 CSR 25-5.262, and in so doing accumulates one hundred kilograms (100 kg) or more of hazardous waste, becomes a generator and shall comply with 10 CSR 25-5.262 in addition to the requirements of this rule. (Note: This provision is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.);

9. In addition to the requirements in 40 CFR 263.11, add the following: "In the event that an EPA identification number has not been assigned, the department will assign an EPA identification number." The applicant shall also submit an application for license in accordance with this rule at the time of notification; and

10. In addition to the requirements in 40 CFR 263.12, the following rules apply to transfer facilities (Note: Used oil transfer facilities are regulated under 10 CSR 25-11.279.):

A. A hazardous waste transported intrastate or into the state by motor carrier shall arrive at its destination in ten (10) calendar days or less from the date the initial transporter signs the manifest, or when the waste first enters the state, unless departmental approval is obtained prior to the expiration of the ten- (10-) day period;

B. A hazardous waste destined for out-of-state treatment, storage, or disposal shall leave the state in ten (10) calendar days or less from the date the initial transporter signs the manifest unless departmental approval is obtained prior to the expiration of the ten- (10-) day period;

C. A hazardous waste transported through the state by motor carrier shall pass through the state in ten (10) calendar days or less unless departmental approval is obtained prior to the expiration of the ten- (10-) day period;

*[D. A secondary containment system for storage of hazardous waste in containers at a transfer facility shall meet the following requirements:*

*(I) A containment system shall be designed, maintained, and operated as follows:*

*(a) The containment system shall include a base*

which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed. The base shall be under the container;

(b) The base shall be sloped or the containment system shall be designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(c) The containment system shall have a capacity equal to ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater (Containers that do not contain free liquids need not be considered in this calculation.);

(d) Run-on into the containment system shall be prevented unless the collection system has sufficient excess capacity in addition to that required in part (2)(A)10.D.(I) of this rule to contain any run-on which might enter the system; and

(e) Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection area as necessary to prevent overflow of the collection system; and

(II) The containment system shall be inspected as part of the weekly inspections required by 40 CFR 265.174 incorporated by reference in 10 CSR 25-7.265(1);

E. The following requirements apply to the management of ignitable, reactive, incompatible, or volatile wastes at a transfer facility: A transporter shall take precautions to prevent accidental ignition or reaction of ignitable or reactive wastes. These hazardous wastes shall be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (that is, from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, a transporter shall confine smoking and open flame to specially designated locations. No Smoking signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste;]

D. A secondary containment system for storage of hazardous waste in containers at a transfer facility shall be designed, maintained, and operated as follows:

(I) With a base under the container(s) which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

(II) With the base sloped or the containment system designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(III) With a capacity equal to ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater (Containers that do not contain free liquids need not be considered in this calculation.);

(IV) With run-on into the containment system prevented unless the collection system has sufficient excess capacity in addition to that specified in part (2)(A)10.D.(I) of this rule to contain any run-on which might enter the system; and

(V) With removal of spilled or leaked waste and accumulated precipitation from the sump or collection area as necessary to prevent overflow of the collection system; and

(VI) Including the containment system as part of the weekly inspections specified in 40 CFR 265.174 incorporated by reference in 10 CSR 25-7.265(1);

E. The following requirements apply to the transporter's management of ignitable, reactive, incompatible, or volatile

wastes at a transfer facility:

(I) Take precautions to prevent accidental ignition or reaction of ignitable or reactive wastes;

(II) Separate and protect wastes identified in subparagraph E. of this section from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (that is, from heat-producing chemical reactions), and radiant heat;

(III) While ignitable or reactive waste is being handled, confine smoking and open flame to specially designated locations; and

(IV) Conspicuously place No Smoking signs wherever there is a hazard from ignitable or reactive waste;

F. Preparedness and prevention. A transporter shall equip the transfer station as specified in 40 CFR 265.32 incorporated by reference in 10 CSR 25-7.265(1). In addition, a transporter shall also provide safety equipment such as fire blankets, gas masks, and self-contained breathing apparatus unless the hazards posed by the type of waste managed does not warrant using this additional safety equipment;

G. Closure. At closure of the storage area, a transporter shall remove and properly dispose of all hazardous waste and hazardous residues. For the purpose of this subparagraph, closure shall occur when the storage of hazardous wastes has not occurred, or is not expected to occur for one (1) year, or when the transporter's license lapses, whichever first occurs;

H. The contents of separate containers of hazardous waste may not be combined at a transfer facility. **Individual lab packed containers may be placed in a larger container if, [W/when containers are overpacked, the transporter [shall] affixes labels to the overpack container, which are identical to the labels on the original shipping container; and**

I. A transfer facility shall not be the same facility as designated in item [9] 8 of the manifest.

(B) Compliance with the Manifest System and Record Keeping. This subsection sets forth requirements in addition to or in lieu of the requirements set forth in 40 CFR part 263 subpart B.

1. Manifests.

A. In lieu of the requirements in 40 CFR 263.20(a), the following shall apply:

(II) In addition to the requirements in 10 CSR 25-5.262, a transporter shall not accept hazardous waste from a generator unless it is accompanied by a manifest signed and dated by the generator which contains federally-required information in accordance with 10 CSR 25-5.262, except that the transporter may accept shipments of hazardous waste without a manifest from persons not required to register as provided in 10 CSR 25-5.262(2)(A) provided that the waste is transported only to a facility which is permitted or certified to accept the waste. The transporter shall maintain records on wastes accepted from those generators which contain information including the type or identity of each waste, the source of each waste, and disposition of each waste. (Note: This paragraph is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.)

(III) Hazardous waste shall be transferred between licensed transporters only; and

(III) For exports, the transporter shall also comply with the following requirements: A transporter may not accept hazardous waste from a primary exporter or other person— 1) if s/he knows the shipment does not conform to the EPA Acknowledgement of Consent, and 2) unless, in addition to a manifest signed in accordance with 10 CSR 25-5, the waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment

by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). The shipping paper for exports by water (bulk shipment) shall contain all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent shall accompany the hazardous waste. Rail transporters shall ensure that a shipping paper contains all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent accompanies the hazardous waste at all times. A transporter shall also provide a copy of the manifest to a United States Customs official at the point of departure from the United States.]

(I) In addition to the requirements in 10 CSR 25-5.262, a transporter shall not accept hazardous waste from a generator unless it is accompanied by a completed uniform hazardous waste manifest signed and dated by the generator containing information in accordance with Subpart B of 40 CFR part 262, except that the transporter may accept shipments of hazardous waste without a manifest from persons not subject to registration as provided in 10 CSR 25-5.262(2)(A) provided that the waste is transported only to a facility which is permitted or certified to accept the waste. The transporter shall maintain records on wastes accepted from those generators which contain information including the type or identity of each waste, the source of each waste, and disposition of each waste. (Note: This paragraph is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.);

(II) Hazardous waste shall be transferred between licensed transporters only; and

(III) For exports, the transporter shall also comply with the following:

(a) Accept no hazardous waste from a primary exporter or other person—1) if s/he knows the shipment does not conform to the EPA Acknowledgement of Consent, and 2) unless, in addition to a manifest signed in accordance with 10 CSR 25-5, the waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment));

(b) Use shipping papers for exports by water (bulk shipment) that contain all the information required on the manifest and, for exports, accompany the hazardous waste with an EPA Acknowledgement of Consent;

(c) If a rail transporter, ensure that a shipping paper contains all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent accompanies the hazardous waste at all times;

(d) Provide a copy of the manifest to a United States Customs official at the point of departure from the United States.

B. In addition to requirements in 40 CFR 263.22, the following shall apply: [Each day that a vehicle is used for the transportation of hazardous waste, the driver of that vehicle, prior to the transportation, shall inspect the vehicle to meet the requirements of 49 CFR 396.11 incorporated by reference in section (1) of this rule. The vehicle inspection shall be documented in writing. At a minimum once annually, transporters shall provide and document hazardous waste/materials training for each driver employee who transports hazardous waste. Records relating to hazardous waste transportation shall be available to representatives of the department for inspection and copying during regular business hours. Current files on driver vehicle inspections, vehicle maintenance, annual employee training, and records of incident reports shall also be maintained for a period of three (3) years by the licensed transporter regardless of whether the vehicle(s) is owned or leased. The period of record retention for these records also extends automatically during the course of any unresolved enforcement action, and the

records shall be available to authorized representatives of the department for inspection and copying during regular business hours.]

(I) Each day that a vehicle is used for the transportation of hazardous waste, the driver of that vehicle, prior to the transportation, shall inspect the vehicle to meet the requirements of 49 CFR 396.11 incorporated by reference in section (1) of this rule;

(II) Document the vehicle inspection in writing;

(III) At a minimum once annually, transporters shall provide and document hazardous waste/materials training for each driver employee who transports hazardous waste;

(IV) Make records relating to hazardous waste transportation available to representatives of the department for inspection and copying during regular business hours; and

(V) Maintain current files on driver vehicle inspections, vehicle maintenance, annual employee training, and records of incident reports for a period of three (3) years. Files shall be maintained by the licensed transporter regardless of whether the vehicle(s) is owned or leased. The period of record retention for these records also extends automatically during the course of any unresolved enforcement action, and the records shall be available to authorized representatives of the department for inspection and copying during regular business hours.

2. (Reserved)

(C) Immediate Action. In addition to the requirements in 40 CFR part 263 subpart C, the following shall apply:

1. In addition to requirements in 40 CFR 263.30(c)(1), the transporter shall also notify the department at the earliest practical moment of a hazardous waste discharge by calling the department's emergency number, (573) 634-2436 (634-CHEM); and

2. In addition to requirements in 40 CFR 263.30(c)(2), the transporter shall also submit a copy of that report to the department.

(D) Operations of Transporters by Modes Other Than Power Unit.

1. A person who transports hazardous waste by a mode other than power unit shall comply with paragraphs (2)(A)1. and 2., parts (2)(A)3.A.(V), (2)(A)3.B.(I) and (III), subparagraph (2)(A)3.C., paragraphs (2)(A)7., 8., 9., and 10., and subsections (2)(B) and (C) of this rule.

2. Application form. An applicant shall submit a completed, department-furnished form which [shall] contain the following information: name, address, type of transport vehicles to be used in hazardous waste transport, and EPA identification number. If an EPA identification number has not been assigned by the EPA, the department will assign an identification number [as provided to the department by the EPA].

3. An applicant shall complete and submit a Non-Motor Carrier Certification of Financial Responsibility form provided by the department to satisfy the transporter insurance requirement.

*AUTHORITY: sections 260.370, 260.373, 260.385, and 260.395, [RSMo Supp. 2013, and section 260.385,] RSMo [2000] 2016. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.*

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*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify*

may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov). Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 7—Rules Applicable to Owners [or]/ Operators  
of Hazardous Waste Facilities**

**PROPOSED AMENDMENT**

**10 CSR 25-7.264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.** The commission proposes to amend sections (1), (2), and (3) of the rule.

*PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.*

(1) The regulations set forth in 40 CFR part 264, July 1, 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) [shall] apply in this rule in addition to any other modification set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent [shall] rules control.

(2) The owner or operator of a permitted hazardous waste treatment, storage, or disposal facility shall comply with this section in addition to the regulations of 40 CFR part 264. In the case of contradictory or conflicting requirements, the more stringent [shall] requirements control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the requirements to be added to 40 CFR part 264 subpart E are found in subsection (2)(E) of this rule.)

(A) General. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart A.

[1. A treatment permit is not required under this rule for a resource recovery process that has been certified by the department in accordance with 10 CSR 25-9.020. Storage of hazardous waste prior to resource recovery must be in compliance with this rule.]

(E) Manifest System, Record Keeping, and Reporting. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart E.

1. Missouri requires an original copy of the manifest to be submitted to the department by all in-state and out-of-state treatment, storage, or disposal facilities (TSDFs) in accordance with 40 CFR 264.71(e).

2. The owner or operator of a hazardous waste management

facility shall submit a report to the department as set forth in this paragraph.

A. All owners or operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the owner or operator is required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

B. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and shipped off-site for treatment, storage, [resource recovery,] or disposal, the owner or operator shall meet the same requirements for the following:

(I) All hazardous waste generated on-site during the reporting period that is managed on-site; and

(II) All hazardous waste received from off-site during the reporting period, including hazardous waste generated by another generator and hazardous waste generated at other sites under the control of the owner or operator.

C. In addition to the information [required] specified in 10 CSR 25-5.262(2)(D), an owner or operator shall include the following information in the summary report:

(I) A description and the quantity of each hazardous waste that was both generated and managed on-site during the reporting period;

(II) For each hazardous waste that was received from off-site, a description and the quantity of each hazardous waste, the corresponding state, and EPA identification numbers of each generator;

(III) For imports, the name and address of the foreign generator;

(IV) The corresponding method of treatment, storage, [resource recovery,] disposal, or other approved management method used for each hazardous waste; and

(V) The quantity and description of hazardous waste residue generated by the facility; and].

[(VI) A summary of both quantitative and qualitative groundwater monitoring data that was received during the reporting period, as required in 40 CFR part 264 subpart F incorporated in this rule and subsection (2)(F) of this rule. (Comment: This does not change the frequency of monitoring required by rules or in specific permit conditions. It only changes the frequency of reporting.)]

3. As outlined in section 260.380.2, RSMo, all owners or operators shall pay a fee to the department of two dollars (\$2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri. This fee [shall be] is referred to as the Out-of-State Waste Fee and [shall not be paid on] does not apply to hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri.

A. For each owner or operator, this fee shall be paid on or before January 1 of each year and [shall be] is based on the total tons of hazardous waste received in the aggregate by that owner or operator for the twelve- (12-) month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee. Each twelve- (12-) month period ending on June 30 shall be referred to as a reporting year.

B. Owners or operators may elect, but are not required, to pay this fee on a quarterly basis at the time they file the [reporting required] reports specified in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay the fee quarterly, owners or operators may elect, but are not required, to pay the fee at the time they file their final quarterly report of each reporting year. However, the total fee for each reporting year must be paid on or before January 1 immediately following the end of each reporting year.

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:

$$\$2 \times 250 \text{ tons} = \$500 \text{ fee}$$

Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 411:

$$\$2 \times 411 \text{ tons} = \$822 \text{ fee}$$

Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 52,150:

$$\$2 \times 52,150 \text{ tons} = \$104,300 \text{ fee}$$

(I) Containers. This subsection sets forth requirements in addition to 40 CFR part 264 subpart I incorporated in this rule.

1. Containers storing hazardous waste must be labeled in accordance with 10 CSR 25-5.262(2)(C) during the entire storage period.

2. Containers holding ignitable or reactive waste that are stored outdoors or in buildings not equipped with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

3. Containers holding ignitable or reactive waste that are stored indoors shall be located at least fifty feet (50') from the facility's property line unless the following requirements are satisfied:

A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two (2) hours, with each opening protected by an automatically-closing listed one and one-half- (1.5-) hour (B) fire door;

B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property, that can be built upon, shall have a fire-resistance rating of at least four (4) hours, with each opening protected by an automatically-closing listed three- (3-) hour (A) fire door (Comment: All fire doors, closure devices, and windows shall be installed in accordance with the National Fire Protection Agency (NFPA) Code 80, Standards for Fire Doors and Windows, 1995 edition);

C. The construction design of exterior walls shall provide ready accessibility for fire-fighting operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

D. Container storage areas shall be provided with automatic fire suppression systems designed and installed in accordance with the NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition), NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition), NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) standards. Final design of these systems shall be approved by a qualified, registered professional engineer in Missouri;

E. Each container storage area shall have preconnect-hose lines capable of reaching the entire area. The fire hose shall be either a one and one-half inch (1.5") line or a one inch (1") hard rubber line. Where a one and one-half inch (1.5") fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

F. Only containers meeting the requirements of, and containing products authorized by, Chapter I, Title 49 of the Code of Federal Regulations (DOT Regulations) or NFPA 386,

Standard for Portable Shipping Tanks shall be used;

G. All storage of ignitable or reactive materials shall be organized in a manner which will not physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

H. All containers shall be arranged so there is a minimum aisle space of four feet (4') between rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be stacked or placed closer than three feet (3') from ceilings or any roof members, or both; and

I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response personnel.]

(3) Permitted hazardous waste TSD facilities that accept and/or ship hazardous waste via railroad tank car (railcar) shall comply with the requirements for container storage in 40 CFR part 264 subpart I, as incorporated by reference in 10 CSR 25-7.264(1), or the following requirements for railcar management.

(A) The owner or operator shall submit a railcar management plan with the application for a hazardous waste treatment, storage, or disposal facility permit. Permitted facilities that currently accept and/or ship hazardous waste via railcars shall request a Class I permit modification that requires prior director approval for the railcar management plan according to the procedures defined in 40 CFR 270.42 as incorporated in 10 CSR 25-7.270(1).

1. The railcar management plan shall describe steps to be taken by the facility in order to comply with the requirements of subsections (3)(B)-(3)(F).

2. The railcar management plan [shall] will be maintained at the facility.

(B) Railcars shall not be used as container or tank storage units at a facility unless the owner or operator complies with the standards for container storage set forth in 40 CFR part 264 subpart I as incorporated in this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270. During the time allowed for loading and unloading as set forth in this section, the railcar [shall] is not [be] considered to be in storage.

1. The owner or operator shall ship hazardous wastes loaded onto a railcar within seventy-two (72) hours after loading is initiated. For the purposes of this section, shipment occurs when—

A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;

B. The transporter returns a signed copy of the manifest to the facility; and

C. The railcar crosses the property boundary line of the TSD facility.

2. The owner or operator shall have a maximum of ten (10) days following receipt of a shipment to unload hazardous waste from incoming railcars. The amount of time allowed for unloading shall be specified in the approved railcar management plan for each facility as part of the permit. The department will review and approve each railcar management plan on a case-by-case basis and will base its decision regarding the time allowed for unloading on factors including, but not limited to, the size of the rail siding, surveillance and security standards, enclosure of the facility, type, and amount of emergency response equipment, and the facility's capacity to handle incidents. Unless more time is allowed by an approved railcar management plan, the owner or operator shall unload hazardous waste from an incoming railcar within seventy-two (72) hours of receipt of the shipment. For the purposes of this section, receipt of the shipment occurs when—

- A. The owner or operator signs the shipping paper; or
- B. The owner or operator signs the manifest; or
- C. The railcar crosses the property boundary line of the TSD facility.

3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo, that fall within the time period approved in the railcar management plan.

4. If the owner or operator finds that a railcar shipment must be rejected, the railcar shall be shipped within twenty-four (24) hours of that determination, or within the time period approved in the railcar management plan, whichever is later. The rejection and the reasons for the rejection shall be documented in the facility's operating record.

5. The owner or operator shall attempt to arrange for the rail carrier to provide the owner or operator a notification detailing when a railcar was picked up from the facility or when a railcar was delivered to the facility. If the rail carrier declines to enter into such arrangements, the owner or operator must document the refusal in the operating record. The time limitations set forth in this subsection must be documented by recording dates and times in the facility's operating record.

6. If the loading and unloading time frames specified in this section are exceeded, then the owner or operator utilizing railcars shall comply with the standards for container storage in 40 CFR part 264 subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR 25-7.270.

**AUTHORITY:** sections 260.370, 260.390, and 260.395, RSMo [Supp. 2013] 2016. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 14, 2018.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous

Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov). Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 7—Rules Applicable to Owners [or]/ Operators of Hazardous Waste Facilities

### PROPOSED AMENDMENT

**10 CSR 25-7.265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.** The commission proposes to amend section (2) and delete section (3) of the rule.

**PURPOSE:** All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(2) The owner or operator of a treatment, storage, or disposal (TSD) facility shall comply with the requirements noted in this section in addition to requirements set forth in 40 CFR part 265 incorporated in this rule. [In the case of contradictory or conflicting requirements in 10 CSR 25, the more stringent shall control.] (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the additional requirements to be added to 40 CFR part 265 subpart A are found in subsection (2)(A) of this rule.)

(A) General. In addition to the requirements in 40 CFR part 265 subpart A, the following regulations also apply:

[1. This rule does not apply to an owner or operator for that portion of or process at the facility which is in compliance with 10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes. (Note: Underground injection wells are prohibited in Missouri by section 577.155, RSMo.); and]

[2.] State interim status is authorization to operate a hazardous waste treatment, storage, or disposal facility pursuant to section 260.395.15, RSMo, 10 CSR 25-7.265, and 10 CSR 25-7.270 until the final administrative disposition of the permit application is made or until interim status is terminated pursuant to 10 CSR 25-7.270. The owner or operator of a facility or unit operating under state interim status shall comply with the requirements of this rule and 10 CSR 25-7.270. In addition to providing notification to the Environmental Protection Agency (EPA), the owner or operator is required to provide state notification in accordance with 10 CSR 25-7.270.

(E) Manifest System, Record Keeping, and Reporting. This subsection sets forth standards which modify or add to those requirements in 40 CFR part 265 subpart E.

1. All owners or operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the owner or operator is required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

2. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and shipped off-site for treatment, storage, [resource recovery,] or disposal, the owner or operator shall meet the same requirements for the following:

A. All hazardous waste generated on-site during the reporting period that is managed on-site; and

B. All hazardous waste received from off-site during the reporting period, including hazardous waste generated by another generator and hazardous waste generated at other sites under the control of the owner or operator.

3. In addition to the information required in 10 CSR 25-5.262(2)(D), an owner or operator shall include the following information in the summary report:

A. A description and the quantity of each hazardous waste that was both generated and managed on-site during the reporting period;

B. For each hazardous waste that is received from off-site, a description and the quantity of each hazardous waste and the corresponding state and EPA identification numbers of each generator;

C. For imports, the name and address of the foreign generator;

D. The corresponding method of treatment, storage, *[resource recovery,]* disposal, or other approved management method used for each hazardous waste.

4. As outlined in section 260.380.2, RSMo, all owners or operators *[shall]* pay a fee to the department of two dollars (\$2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri. This fee *[shall be]* is referred to as the Out-of-State Waste Fee and *[shall]* is not *[be]* paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri.

A. For each owner or operator, this fee shall be paid on or before January 1 of each year and *[shall be]* is based on the total tons of hazardous waste received in the aggregate by that owner or operator for the twelve- (12-) month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee. Each twelve- (12-) month period ending on June 30 *[shall be]* is referred to as a reporting year.

B. Owners or operators may elect, but are not required, to pay this fee on a quarterly basis at the time they file the reporting *[required]* **specified** in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay the fee quarterly, owners or operators may elect, but are not required, to pay the fee at the time they file their final quarterly or annual report of each reporting year. However, the total fee for each reporting year must be paid on or before January 1 immediately following the end of each reporting year.

#### EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:

$$\$2 \times 250 \text{ tons} = \$500 \text{ fee}$$

Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri.  
The number of tons would be rounded to 411.

$$\$2 \times 411 \text{ tons} = \$822 \text{ fee}$$

Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri.  
The number of tons would be rounded to 52,150.

$$\$2 \times 52,150 \text{ tons} = \$104,300 \text{ fee}$$

(I) Use and Management of Containers. [This subsection sets forth additional standards for container storage areas.] (Reserved)

1. Containers holding ignitable or reactive waste which are stored outdoors or in buildings not equipped with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

2. Containers holding ignitable or reactive waste which are stored indoors shall be located at least fifty feet (50') from the facility's property line, unless the following requirements are satisfied:

A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two (2) hours, with each opening protected by an automatically-closing listed one and one-half- (1.5-) hour (B) fire door;

B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least four (4) hours, with each opening protected by an automatically-closing listed three- (3-) hour (A) fire door (Comment: All fire doors, closure devices, and windows shall be installed in accordance with the National Fire Protection Association (NFPA) Code 80, Standards for Fire Doors and Windows, 1995 edition);

C. The construction design of exterior walls shall provide ready accessibility for fire-fighting operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

D. Container storage areas shall be provided with automatic fire suppression systems designed and installed in accordance with NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition), NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition), NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) Standards. Final design of these systems shall be approved by a qualified, registered professional engineer in Missouri;

E. Each container storage area shall have preconnected hose lines capable of reaching the entire area. The fire hose shall be a one and one-half inch (1.5") line or one inch (1") hard rubber line. Where a one and one-half inch (1.5") fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

F. Only containers meeting the requirements of, and containing products authorized by, Chapter I, Title 49 of the Code of Federal Regulations (DOT Regulations) or NFPA 386, Standard for Portable Shipping Tanks (1990 edition) shall be used;

G. All storage of ignitable or reactive materials shall be organized in a manner which will not physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

H. All containers shall be arranged so that there is a minimum aisle space of four feet (4') between rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be stacked, placed, or both, closer than three feet (3') from ceilings or any roof members; and

I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response personnel.]

[(3) Interim status hazardous waste TSD facilities that accept and/or ship hazardous waste via railroad tank car (railcar) shall comply with the requirements for container storage in 40 CFR part 265 subpart I, as incorporated by reference in 10 CSR 25-7.265(1), or the following requirements for railcar management:

(A) The owner or operator shall submit a railcar management plan with the application for a hazardous waste treatment, storage, or disposal facility permit. Interim status facilities that currently accept and/or ship hazardous waste via railcars shall request a change in interim status that requires director approval for the railcar management plan according to the procedures defined in 40 CFR 270.72 as incorporated in 10 CSR 25-7.270(1).

1. The railcar management plan shall describe steps to be taken by the facility in order to comply with the requirements of subsections (3)(B)-(3)(F).

2. The railcar management plan shall be maintained at the facility;

(B) Railcars shall not be used as container or tank storage units at a facility unless the owner or operator complies with the standards for container storage set forth in 40 CFR part 265 subpart I as incorporated in this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270(1). During the time allowed for loading and unloading as set forth in this section, the railcar shall not be considered to be in storage.

1. The owner or operator shall ship hazardous wastes loaded onto a railcar within seventy-two (72) hours after loading is initiated. For the purposes of this section, ship-ment occurs when—

A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;

B. The transporter returns a signed copy of the manifest to the facility; and

C. The railcar crosses the property boundary line of the TSD facility.

2. The owner or operator shall have a maximum of ten (10) days following receipt of a shipment to unload hazardous waste from incoming railcars. The amount of time allowed for unloading shall be specified in the approved railcar management plan for each facility as part of the permit. The department will review and approve each railcar management plan on a case-by-case basis and will base its decision regarding the time allowed for unloading on factors including, but not limited to, the size of the rail siding, surveillance and security standards, enclosure of the facility, type, and amount of emergency response equipment, and the facility's capacity to handle incidents. Unless more time is allowed by an approved railcar management plan, the owner or operator shall unload hazardous waste from an incoming railcar within seventy-two (72) hours of receipt of the shipment. For the purposes of this section, receipt of the shipment occurs when—

A. The owner or operator signs the shipping paper; or

B. The owner or operator signs the manifest; or

C. The railcar crosses the property boundary line of the TSD facility.

3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo, that fall within the time period approved in the railcar management plan.

4. If the owner or operator finds that a railcar shipment must be rejected, the railcar shall be shipped within twenty-four (24) hours of that determination, or within the time period approved in the railcar management plan, whichever is later. The rejection and the reasons for the rejection shall be documented in the facility's operating record.

5. The owner or operator shall attempt to arrange for the rail carrier to provide the owner or operator a notification detailing when a railcar was picked up from the facility or when a railcar was delivered to the facility. If the rail carrier declines to enter into such arrangements, the owner or operator must document the refusal in the operating record. The time limitations set forth in this subsection must be documented by recording dates and times in the facility's operating record.

6. If the loading and unloading time frames specified in this section are exceeded, then the owner or operators utilizing railcars shall comply with the standards for container storage in 40 CFR part 265 subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR 25-7.270;

(C) The owner or operator shall comply with 40 CFR 265.17, incorporated in this rule, during railcar loading and unloading. Additional specific precautions to be taken shall include facility design, construction, operation, and maintenance standards as specified in "Loading and Unloading Operations: Tank Vehicles and Tank Cars" in section 5-4.4.1 of the 1993 Edition of the National Fire Protection Association Flammable and Combustible Liquids Code (NFPA 30);

(D) The owner or operator shall provide security for railcars at the facility by utilizing one (1) of the alternatives specified in 40 CFR 265.14(b), as incorporated in this rule. If the owner or operator demonstrates that it is not practical to provide security for railcars at the facility as specified in 40 CFR 265.14(b), incorporated in this rule, railcars shall be secured by locking all fill and drain posts upon receipt of a loaded railcar or upon completion of the owner or operator's loading procedures. The locks must remain in place until the owner or operator begins unloading procedures or until the rail carrier picks up the loaded or rejected railcar for transport off-site;

(E) In accordance with 40 CFR 265.15, incorporated in this rule, the owner or operator shall inspect railcars and surrounding areas at least daily looking for leaks and for deterioration caused by corrosion or other factors; and

(F) In accordance with 40 CFR part 265 subpart C and 40 CFR part 265 subpart D, as incorporated in this rule, the owner or operator shall develop preparedness and prevention procedures and a contingency plan for railcars. If the owner or operator has not prepared a Spill Prevention Control and Countermeasures (SPCC) Plan for hazardous waste, then one must be developed that parallels requirements and guidelines as specified in 40 CFR part 112 for oil. At a minimum, the SPCC Plan must include adequate spill response equipment and preventative measures, such as dikes, curbing, and containment systems.]

**AUTHORITY:** sections 260.370, 260.390, and 260.395, RSMo [Supp. 2013] 2016. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 14, 2018.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference

Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov). Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 7—Rules Applicable to Owners [or]/ Operators of Hazardous Waste Facilities

### PROPOSED AMENDMENT

**10 CSR 25-7.266 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.** The commission proposes to amend section (2) of the rule.

**PURPOSE:** All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(2) Persons subject to the regulations in 40 CFR part 266 shall comply with the requirements, changes, additions, or deletions noted in this section in addition to 40 CFR part 266 incorporated in this rule. [(Comment: This section has been organized so that all Missouri additions or changes to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to the management requirements for hazardous waste fuels, 40 CFR part 266 subpart D, are found in subsection (2)(D) of this rule.)]

(C) Recyclable Materials Used in a Manner Constituting Disposal. [In addition to the requirements in 40 CFR part 266 subpart C incorporated in this rule, a person who is marketing hazardous waste recyclable materials which would be used in a manner constituting disposal must obtain a hazardous waste resource recovery certification pursuant to 10 CSR 25-9.020.] (Reserved)

(G) [Spent Lead-Acid Batteries Being Reclaimed. In addition to the requirements in 40 CFR part 266 subpart G, a person who reclaims materials from spent lead-acid batteries shall obtain a hazardous waste resource recovery certification pursuant to 10 CSR 25-9.020.] (Reserved)

(H) [Hazardous Waste Burned in Boilers and Industrial Furnaces. Additions, modifications, and deletions to 40 CFR part 266 subpart H "Hazardous Waste Burned in Boilers and Industrial Furnaces" are as follows:] (Reserved)

[1. Add the following provision to 40 CFR 266.100(d) incorporated in this rule: "The owner or operator of facilities that process hazardous waste solely for metal recovery in accordance with 40 CFR 266.100(d) shall be certified for resource recovery pursuant to 10 CSR 25-9.020".]

(M) Military Munitions. Additions, modifications, and deletions to 40 CFR part 266 subpart M “Military Munitions” are:

1. Oral and written notifications required by 40 CFR 266.203(a)(1) and 40 CFR 266.205(a)(1) shall be submitted to the department’s emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director[; and].

[2. Oral and written notifications required by 40 CFR 266.205(a)(1) shall be submitted to the department’s emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director.]

*AUTHORITY:* sections 260.370, 260.373, 260.390, and 260.395, RSMo [Supp. 2013] 2016. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 14, 2018.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 7—Rules Applicable to Owners [or]/ Operators  
of Hazardous Waste Facilities**

**PROPOSED AMENDMENT**

**10 CSR 25-7.270 Missouri Administered Permit Programs: The Hazardous Waste Permit Program.** The commission proposes to amend sections (1) and (2) of the rule.

*PURPOSE:* All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department’s Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR part 270, July 1, 2013, except for the changes made at 70 FR 53453 September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA

15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* rules control.

(A) Any federal agency, administrator, regulation, or statute that is referenced in 40 CFR part 270 *[shall be]* deleted and the comparable state department, director, rule, or statute as provided in 10 CSR 25-3.260(1)(A) *[shall be]* added in its place except as specified in this rule. The additional substitutions or changes noted in this subsection *[shall]* also apply.

(2) The owner or operator of a permitted hazardous waste treatment, storage, or disposal (TSD) facility shall comply with the requirements noted in this rule along with 40 CFR part 270, incorporated in this rule. *[Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to 40 CFR part 270 subpart A are found in subsection (2)(A) of this rule.]*

(A) General Information. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart A.

1. When a facility is owned by one (1) person but is operated by another person, both the owner and operator shall sign the permit application, and the permit shall be issued to both.

2. The owner or operator of a new hazardous waste management facility shall contact the department and obtain a United States Environmental Protection Agency (EPA) identification number *[before commencing]* as part of the application process for a hazardous waste treatment, storage, or disposal *[of hazardous waste] permit*.

3. In 40 CFR 270.3 “Considerations Under Federal Law,” do not substitute any comparable Missouri statute or administrative rule for the federal acts and regulations. This does not relieve the owner or operator of his/her responsibility to comply with any applicable and comparable state law or rule in addition to complying with the federal acts and regulations.

(B) Permit Application. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart B.

1. Existing hazardous waste management facilities must submit a Part A permit application to the department no later than sixty (60) days after the effective date of state rules which first require them to comply with the requirements set forth in 10 CSR 25-7.265 or 10 CSR 25-7.266. A facility which did not meet federal notification and Part A submittal requirements under the Hazardous and Solid Waste Amendments (HSWA) *[shall]* does not qualify for state interim status. State interim status is granted to those facilities which either meet federal interim status requirements, are required to meet state interim status requirements because no federal interim status requirements affect the filing, or become subject to regulations under state rules which are not promulgated to meet the requirements of 40 CFR part 271.

2. Confidentiality may be requested for *[the] certain permit application information [required in] submitted pursuant to* 40 CFR 270.13(a)–(m) incorporated in this rule. 10 CSR 25-3.260(1)(B) sets forth requirements for protection of confidential business information and the availability of information provided under 10 CSR 25. Therefore, 40 CFR 270.12 is not incorporated by reference in this rule.

3. All submitted engineering plans and reports shall be approved by a registered professional engineer licensed by Missouri. The engineering plans and reports shall specify the materials, equipment, construction methods, design standards, and specifications for hazardous waste management facilities, and processes that will be

utilized in the construction and operation of the facility. The engineering plans and reports shall also include a diagram of any piping, instrumentation, or process flows, and descriptions of any feed systems, safety cutoffs, bypass systems, and pressure controls (for example, vents).

4. The permit application fee set forth in 10 CSR 25-12.010 shall be submitted with the application.

5. The department will supervise any field work undertaken to collect geologic and engineering data which is to be submitted with the application. The applicant shall contact the department at least five (5) working days prior to conducting any field work that is undertaken to collect geologic and engineering data which is to be submitted with the application. A fee shall also be assessed pursuant to 10 CSR 25-12.010 for all costs incurred by the department in the observation of field work, engineering, and geological review of the application, and all other review necessary by the department to verify that the application complies with section 260.395.7., RSMo.

6. The permit application shall include the following information for the purpose of notification:

A. Names and address of all persons listed on the facility mailing list as defined in 10 CSR 25-8.124(1)(A)10.C.(I)(c) [shall be] submitted in the form of an alphabetical list with five (5) sets of addressed, self-adhesive mailing labels also included; and

B. The name, address, and telephone number of the location where the permit application and supporting documents are to be placed, as described in 10 CSR 25-8.124(1)(B)3.B.(II)(c) and the name of the person at that location who may be contacted to schedule a review of the documents.

7. An applicant may be required to submit other information as may be necessary to enable the department to carry out its duties.

8. The owner or operator of a permitted [or interim status] treatment, storage, and disposal (TSD) facility that accepts and/or ships hazardous waste via railroad tank car (railcar) may submit a railcar management plan in accordance with the requirements set forth in 10 CSR 25-7.264(3) [or 10 CSR 25-7.265(3), as applicable].

9. The person applying for a permit under sections 260.350–260.434, RSMo, shall comply with the requirements of 10 CSR 25-8.124(1).

(C) Permit Conditions. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart C.

1. This paragraph sets forth the procedures for issuance of a hazardous waste facility permit, construction certification, and authorization to begin operation.

A. If, after public notice in accordance with 10 CSR 25-8.124 and review of the application, the department determines that the application conforms with the provisions of sections 260.350–260.434, RSMo, and all standards and rules corresponding, the department shall issue the hazardous waste facility permit to the applicant upon payment of a fee of one thousand dollars (\$1000) for each facility for each year the permit is to be in effect beyond the first year. [The department will issue an EPA identification number to the facility at the time.]

B. The appeal period for a permit or any condition of a permit [shall] begin on the date of issuance of the permit as [required] specified in subparagraph (2)(C)1.A. of this rule. However, for the purposes of termination of interim status pursuant to 40 CFR 270.73(a) incorporated in this rule, final administrative disposition of the permit application [shall] occur either—

(I) Thirty (30) days after issuance of a [letter of authorization] final permit pursuant to this rule, unless a notice of appeal is filed with the commission within that time;

(II) Thirty (30) days after permit denial [of authorization to operate] pursuant to this rule, unless a notice of appeal is filed with the commission within that time; or

(III) Upon the issuance of a decision by the commission, after timely appeal of an action of this rule.

2. The department may deny the permit application if—

A. The applicant fails to submit a complete application in accordance with, and within the time specified in, a notice of deficiency issued pursuant to 10 CSR 25-8.124(1)(A)3.;

B. The applicant has failed to fully disclose all relevant information in the application or during the permit issuance process or has misrepresented facts at any time;

C. The department determines that the application does not conform with the provisions of sections 260.350–260.434, RSMo, and all corresponding standards and rules, or that the facility cannot be effectively operated and maintained in full compliance with sections 260.350–260.434, RSMo, and all corresponding standards and rules, or that the facility is being operated or maintained in violation of a present permit, or that continued operation of the facility presents an unreasonable threat to human health or the environment or will create or allow for the continuance of a public nuisance;

D. The department determines that one (1) of the conditions specified in section 260.395.17., RSMo, is present; or

E. The applicant owner or operator fails to submit the permit fees [required by] specified in subparagraph (2)(C)1.A. of this rule within thirty (30) days of receipt of notice from the department that the fees are due.

*AUTHORITY: sections 260.370, 260.373, 260.390, and 260.395, RSMo [Supp. 2013] 2016. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

## **Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 8—Public Participation and General Procedural Requirements**

### **PROPOSED AMENDMENT**

**10 CSR 25-8.124 Procedures for Decision Making.** The commission proposes to amend sections (1), (2), (3), and (5) and delete section (4) of the rule.

*PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's*

*Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.*

(1) Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) [shall] apply in this rule, in addition to any other modifications established in paragraph (1)(A)2. of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent [shall] rules control. (Comment: This section has been organized so that Missouri requirements analogous to a particular lettered subpart in 40 CFR part 124 are set forth in the corresponding lettered subsection of section (1) of this rule. For example, the general program requirements in 40 CFR part 124 subpart A, with Missouri modifications, are found in subsection (1)(A) of this rule.)

(A) This subsection sets forth requirements that correspond to those requirements in 40 CFR part 124 subpart A.

1. Purpose and scope. This subsection contains procedures for the review, issuance, class 3 or department-initiated modification, total modification, or revocation of all permits issued pursuant to sections 260.350 through 260.434, RSMo. This subsection also contains procedures for the denial of a permit, either in its entirety or as to the active life of a hazardous waste management facility or unit, under 40 CFR 270.29, as incorporated in 10 CSR 25-7.270. Interim status is not a permit and is covered by specific provisions in 10 CSR 25-7.265 and 10 CSR 25-7.270. Class 1 or class 2 permit modifications, as defined in 40 CFR 270.42 as incorporated in 10 CSR 25-7.270, are not subject to the requirements of this subsection.

2. Definitions. In addition to the definitions given in 40 CFR 270.2, as incorporated in 10 CSR 25-7.270, the definitions below apply to this rule—

A. “Draft permit” means a document prepared under paragraph (1)(A)6. of this rule indicating the department’s tentative decision to issue, deny, modify in part or in total, revoke, or reissue a “permit.” A notice of intent to revoke, as discussed in subparagraph (1)(A)5.D. of this rule, and a notice of intent to deny, as discussed in subparagraph (1)(A)6.B. of this rule, are types of draft permits. A denial of a request for modification, total modification, or revocation of a permit, as discussed in subparagraph (1)(A)5.B. of this rule, is not a type of “draft permit”;

B. “Formal hearing” means any contested case held under section 260.400, RSMo;

C. “Permit application” means the U.S. Environmental Protection Agency standard national forms for applying for a permit, including any additions, revisions, or modifications to the forms; or forms approved by the U.S. Environmental Protection Agency for use in Missouri, including any approved modifications or revisions. It also includes the information [required] specified by the department under 40 CFR 270.14–270.29, as incorporated into 10 CSR 25-7.270;

D. “Public hearing” means any hearing on a tentative decision at which any member of the public is invited to give oral or written comments;

E. “Revocation” means the termination of a permit;

F. “Schedule of compliance” means a schedule of remedial measures in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with sections 260.350 through 260.434, RSMo;

G. “Total modification” means the revocation and reissuance of a permit;

H. “Site” means the land or water area where any “facility or activity” is physically located or conducted, including adjacent land used in connection with the facility or activity; and

I. “Variance” means any variation from the Missouri Hazardous Waste Management Law as defined in section 260.405,

RSMo.

3. Application for a permit.

A. Any person who requires a permit shall complete, sign, and submit to the department a permit application for each permit required under 40 CFR 270.1, as incorporated in 10 CSR 25-7.270. Permit applications are not required for permits by rule per 40 CFR 270.60, as incorporated in 10 CSR 25-7.270. The department shall not begin the processing of a permit until the applicant has fully complied with the permit application requirements for that permit, as provided under 40 CFR 270.10 and 270.13, as incorporated in 10 CSR 25-7.270. Permit applications shall comply with the signature and certification requirements of 40 CFR 270.11, as incorporated in **10 CSR 25-7.270(2)(A.1.), and** 10 CSR 25-7.270.

B. The department shall review for completeness every permit application. Each permit application submitted by a new facility should be reviewed for completeness by the department within thirty (30) days of its receipt. Each permit application submitted by an existing facility should be reviewed for completeness by the department within sixty (60) days of its receipt. Upon completing the review, the department will notify the applicant in writing whether the permit application is complete. If the permit application is incomplete, the department will list the information necessary to make the permit application complete. When the permit application is for an existing facility, the department will specify, in the notice of deficiency, a date for submitting the necessary information. The department will notify the applicant that the permit application is complete upon receiving the required information. After the permit application is complete, the department may request additional information from an applicant, but only as necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render a permit application incomplete.

C. If an applicant fails or refuses to correct deficiencies in the permit application, the permit may be denied and enforcement actions may be taken under the applicable statutory provisions of sections 260.350 through 260.434, RSMo.

D. The effective date of a permit application is the date the department notifies the applicant that the permit application is complete, as provided in subparagraph (1)(A)3.B. of this rule.

E. For each permit application the department will, no later than the effective date of the permit application, prepare and mail to the applicant a project decision schedule. The schedule will specify target dates by which the department intends to—

(I) Prepare a draft permit;

(II) Give public notice;

(III) Complete the public comment period, including any public hearing; and

(IV) Issue a final permit decision.

F. If the department decides that a site visit is necessary for any reason in conjunction with the processing of a permit application, the department will notify the applicant and a date will be scheduled.

G. Whenever a facility or activity requires more than one (1) type of environmental permit from the state, the applicant may request, or the department may offer, a unified permitting schedule that covers the timing and order to obtain such permits, as provided in section 640.017, RSMo, and 10 CSR 1-3.010.

4. Reserved.

5. Modification, total modification, or revocation of permits.

A. Permits may be modified in part or in total, or revoked, either at the request of the permittee or of any interested person or upon the department’s initiative. However, permits may only be modified or revoked for the reasons specified in 40 CFR 270.41 or 40 CFR 270.43, as incorporated in 10 CSR 25-7.270. All requests shall be in writing and shall contain facts and reasons supporting the request.

B. If the department decides the request is not justified, a brief written response giving a reason for the decision shall be sent to the person requesting the permit modification and to the permittee.

Denial of a request for modification, in part or in total, or revocation of a permit is not subject to public notice, comment, or hearing, and is not appealable under section (2) of this rule.

C. Tentative decision to modify.

(I) If the department tentatively decides to modify a permit in part or in total, a draft permit incorporating the proposed changes will be prepared according to paragraph (1)(A)6. of this rule. The department may request additional information and, in the case of a partial permit modification, may require the submission of an updated permit application. In the case of a total permit modification, the department will require the submission of a new permit application.

(II) When a permit is partially modified under this paragraph, only the conditions being modified *[shall be]* are reopened. All other conditions of the original permit *[shall]* remain in effect for the duration of the *[original]* existing permit. When a permit is totally modified under this paragraph, the entire permit is reopened just as if the permit had expired and was being reissued. During any total modification, the permittee *[shall comply]* complies with all conditions of the *[original]* existing permit until a new, final permit is issued.

(III) "Class 1 and class 2 permit modifications" as defined in 40 CFR 270.42, as incorporated in 10 CSR 25-7.270, are not subject to the requirements of this paragraph.

D. If the department tentatively decides to revoke a permit, the department will issue a notice of intent to revoke. A notice of intent to revoke is a type of draft permit and follows the same procedures as any draft permit decision prepared under paragraph (1)(A)6. of this rule.

6. Draft permits.

A. Once the technical review of a permit application is complete, the department shall tentatively decide whether to prepare a draft permit, or deny the permit application.

B. If the department tentatively decides to deny the permit application, a notice of intent to deny shall be issued. A notice of intent to deny is a type of draft permit and follows the same procedures as any draft permit decision prepared under this paragraph. If the department's final decision under paragraph (1)(A)15. of this rule is that the tentative decision to deny the permit application was incorrect, the department shall withdraw the notice of intent to deny and prepare a draft permit under this paragraph.

C. If the department tentatively decides to prepare a draft permit, the department will prepare a draft permit that contains the following information:

(I) All conditions under 40 CFR 270.30 and 270.32, as incorporated in 10 CSR 25-7.270;

(II) All compliance schedules under 40 CFR 270.33, as incorporated in 10 CSR 25-7.270;

(III) All monitoring requirements under 40 CFR 270.31, as incorporated in 10 CSR 25-7.270; and

(IV) Standards for treatment, storage, and/or disposal and other permit conditions under 40 CFR 270.30, as incorporated in 10 CSR 25-7.270.

D. All draft permits prepared under this paragraph will be accompanied by a fact sheet per paragraph (1)(A)8. of this rule, publicly noticed per paragraph (1)(A)10. of this rule, and made available for public comment per paragraph (1)(A)11. of this rule. The department will give notice of opportunity for a public hearing per paragraph (1)(A)12. of this rule, issue a final decision per paragraph (1)(A)15. of this rule, and respond to comments per paragraph (1)(A)17. of this rule. An appeal may be filed under section (2) of this rule.

E. Prior to making the draft permit available for public comment, the department shall deliver the draft permit to the applicant for review, as provided in section 640.016.2, RSMo. The applicant shall have ten (10) days to review the draft permit for nonsubstantive drafting errors. The department shall make the applicant's changes to the draft permit within ten (10) days of receiving the applicant's review and then submit the draft permit for public comment. The

applicant may waive the opportunity to review the draft permit prior to public notice.

7. Reserved.

8. Fact sheet.

A. A fact sheet will be prepared for every draft permit. The fact sheet will briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The department will send this fact sheet to the applicant and to any person who requests a copy.

B. The fact sheet shall include, when applicable:

(I) A brief description of the type of facility or activity which is the subject of the draft permit;

(II) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;

(III) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions.

[(III)](IV) Reasons why any requested variances or alternatives to *[required]* applicable standards do or do not appear justified;

[(IV)](V) A description of the procedures for reaching a final decision on the draft permit including:

(a) The beginning and ending dates of the public comment period under paragraph (1)(A)10. of this rule and the address where comments will be received;

(b) Procedures for requesting a hearing and the nature of that hearing; and

(c) Any other procedures by which the public may participate in the final decision; and

[(V)](VI) Name and telephone number of a department contact for additional information.

9. Reserved.

10. Public notice of permit actions and public comment period.

A. Scope.

(I) The department will give public notice that the following actions have occurred:

(a) A notice of intent to deny a permit application has been prepared under subparagraph (1)(A)6.B. of this rule;

(b) A draft permit has been prepared under subparagraph (1)(A)6.C. of this rule;

(c) A hearing has been scheduled under paragraph (1)(A)12. of this rule; **or**

[(d) *An appeal hearing has been scheduled under section (2) of this rule; or*

[(e)](d) A notice of intent to revoke a permit has been prepared under subparagraph (1)(A)5.D. of this rule.

(II) No public notice is required when a request for permit modification, in part or in total, or revocation is denied. A brief written response giving a reason for the decision will be sent to the requester and to the permittee.

(III) Public notices may describe more than one (1) permit or permit action.

B. Timing.

(I) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application and a notice of intent to revoke a permit) *[required]* under subparagraph (1)(A)10.A. of this rule will allow at least forty-five (45) days for public comment.

(II) Public notice of a public hearing will be given at least thirty (30) days before the hearing. Public notice of the hearing may be given at the same time as the public notice of the draft permit, and the two (2) notices may be combined.

C. Methods. Public notice of activities described in part (1)(A)10.A.(I) of this rule will be given by the following methods:

(I) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this part may waive their rights to receive notice for any permit):

(a) The applicant;  
 (b) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, natural resource management plans, and state historic preservation officers, including any affected states (Indian tribes); and

(c) Persons on a mailing list maintained by the facility which is developed by—

I. Including those who request to be on the list;

II. Soliciting persons for “area lists” from participants in past permit proceedings in that area;

III. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals. The facility shall be responsible for maintaining and updating the mailing list. The department may require the facility to update the mailing list from time-to-time by requesting written indication of continued interest from those listed. The facility may remove from the list the name of any person who fails to respond to such a request;

IV. Including all record owners of real property adjacent to the current or proposed facility, in accordance with section 260.395.8, RSMo;

V. Including, for a post-closure disposal facility, all record owners of real property which overlies any known plume of contamination originating from the facility; and

VI. Including, for an operating disposal facility, all record owners of real property located within one (1) mile of the outer boundaries of the current or proposed facility, in accordance with section 260.395.8, RSMo;

(d) A copy of the notice shall also be sent to the highest elected official of the county and the highest elected official of the city, town, or village having jurisdiction over the area where the facility is currently or proposed to be located, in accordance with section 260.395.8, RSMo, and each state agency having any authority under state law with respect to the construction or operation of such facility; **and**

*[(e) The department will mail a copy of the legal notice, fact sheet, and draft permit to the location where the permit application was placed for public review under subpart (1)(B)2.B.(III)(d) of this rule; and]*

*[(f)](e)* A copy of the notice shall also be sent to any other department program or federal agency which the department knows has issued or is required to issue a Resource Conservation and Recovery Act (RCRA), Hazardous and Solid Waste Amendments (HSWA), Underground Injection Control (UIC), Prevention of Significant Deterioration (PSD), (or other permit issued under the Clean Air Act), National Pollutant Discharge Elimination System (NPDES), 404, or sludge management permit for the same facility or activity (including the U.S. Environmental Protection Agency);

(II) Other publication.

(a) Publish a legal notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(b) For any draft permit that includes active land disposal of hazardous waste, issue a news release to the media serving the area where the facility is currently or proposed to be located, in accordance with section 260.395.8, RSMo; *[and]*

(III) Any other method reasonably calculated to give actual notice of the activity to the persons potentially affected by it, including news releases or any other forum or medium to elicit public participation~~./~~; **and**

**(IV) The department will mail a copy of the legal notice, fact sheet, and draft permit to a location accessible to the public, in the vicinity of the facility, where the documents can be viewed and copied.**

D. Contents. All notices issued under this paragraph shall contain the following minimum information:

(I) Name and address of the department;

(II) Name and address of the permittee or applicant and, if different, of the facility or activity regulated by the permit;

(III) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(IV) Name, address, and telephone number of a department contact person from whom interested persons may obtain additional information;

(V) A brief description of the comment procedures, the date, time, and place of any hearing that will be held, a statement of procedures for requesting a hearing (unless a hearing has already been scheduled), and any other procedures by which the public may participate in the final permit decision;

(VI) Any additional information considered necessary or proper by the department;

(VII) The location where the information listed in subpart (1)(A)10.C.(I)(e) of this rule was placed for public review; and

(VIII) In addition to the information listed above, the public notice of a public hearing under paragraph (1)(A)12. of this rule shall contain the following information:

(a) Reference to the date of previous public notices relating to the draft permit;

(b) Date, time, and place of the hearing; and

(c) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

E. In addition to the notice described in subparagraph (1)(A)10.D. of this rule, the department shall mail a copy of the permit application (if any), draft permit, and fact sheet to all persons identified in subparts (1)(A)10.C.(I)(a), (b), and (f) of this rule.

11. Public comments and requests for public hearings. During the public comment period provided under paragraph (1)(A)10. of this rule, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and *[shall]* state the nature of the issues to be raised in the hearing. All written comments and oral comments given at the public hearing, if one is held, *[shall be]* **are** considered by the department in making the final permit decision and *[shall be]* **are** answered as provided in paragraph (1)(A)17. of this rule.

12. Public hearings.

A. In accordance with section 260.395.8, RSMo, the department will hold a public hearing whenever a written request for a hearing is received within forty-five (45) days of the public notice under part (1)(A)10.B.(I) of this rule. **In accordance with section 260.395.8, RSMo, [F]for** any permit that includes active land disposal of hazardous waste, the department shall hold a public hearing after public notice, as *[required]* **specified** in paragraph (1)(A)10. of this rule, before issuing, modifying in total, or renewing the permit; and before any Class 3 or department-initiated permit modification related to the hazardous waste land disposal unit(s), including those necessary due to the department’s five- (5-) year review.

B. The department may hold a public hearing at its own discretion whenever there is significant public interest in a draft permit or when one (1) or more issues involved in the permit decision requires clarification.

C. Whenever possible, the department will schedule a public hearing under this paragraph at a location convenient to the nearest population center to the current or proposed facility.

D. Public notice of the public hearing will be given as specified in paragraph (1)(A)10. of this rule.

E. Any person may submit written comments or data concerning the draft permit. The department will accept oral comments during the public hearing. Reasonable limits may be set on the time allowed for oral comments. Any person who cannot present oral comments due to time limitations will be provided an opportunity to present written comments. The public comment period under paragraph (1)(A)10. of this rule will automatically be extended to the close of any public hearing if the public hearing is held later than

forty-five (45) days after the start of the public comment period.

F. A tape recording or written transcript of the public hearing shall be made available to the public.

13. Obligation to raise issues and provide information during the public comment period. All persons, including the applicant, who believes any condition of a draft permit is inappropriate or that the department's tentative decision to deny a permit application, prepare a draft permit, or revoke a permit is inappropriate, shall raise all ascertainable issues and submit all relevant arguments supporting their position by the close of the public comment period under paragraph (1)(A)10. of this rule. Any supporting materials that are submitted shall be included in full and may not be incorporated by reference, unless the supporting materials are state or federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.

14. *Reserved.*

15. Issuance and effective date of permit.

A. For purposes of this paragraph, a final permit decision means the issuance, denial, Class 3 or department-initiated modification, total modification, or revocation of a permit. After the close of the public comment period under paragraph (1)(A)10. of this rule, the department will issue a final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under 40 CFR 270.29, as incorporated in 10 CSR 25-7.270). The department will notify the applicant and each person who submitted written comments, gave oral comments at the public hearing, or requested notice of the final permit decision. This notice will include reference to the procedures for appealing a final permit decision under section (2) of this rule. **The department will mail a copy of the final permit decision to the location where the draft permit was placed for public review under subpart (1)(A)10.C.(II) of this rule.** The department will also send a news release announcing the final permit decision to the media serving the area where the facility is currently or proposed to be located, *in accordance with section 260.395.8, RSMo.*

B. A final permit issuance, denial, or modification decision (or a decision to deny a permit either in its entirety or as to the active life of a hazardous waste management facility or unit under 40 CFR 270.29, as incorporated in 10 CSR 25-7.270) will become effective on the date the decision is signed by the department. A final permit revocation decision will become effective thirty (30) days after the department signs the decision, unless no comments requested a change in the draft permit revocation decision, in which case the final permit revocation decision will become effective on the date the decision is signed by the department.

16. *Reserved.*

17. Response to comments.

A. At the same time that any final permit decision is issued under paragraph (1)(A)15. of this rule, the department will issue a response to comments. This response shall—

(I) Specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the change; and

(II) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period and public hearing, if one was held.

B. The response to comments will be made available to the public.

18. *Reserved.*

19. *Reserved.*

20. Computation of time.

A. Any time period scheduled to begin on the occurrence of an act or event *[shall]* begins on the day after the act or event.

B. Any time period scheduled to end before the occurrence of an act or event *[shall]* ends on the last working day before the act or event.

C. If the last day of any time period falls on a weekend or legal holiday, the time period *[shall be]* extended to the next work-

ing day.

D. Whenever a party or interested person has the right or is required to act within a specific time period after he or she receives notice by mail, three (3) days *[shall be]* added to the time period to allow for mail delivery.

(B) This subsection sets forth requirements that correspond to the requirements in 40 CFR part 124 subpart B.

1. Applicable permit procedures.

A. The requirements of this paragraph *[shall]* apply to all new permit applications and permit applications for renewal of permits where a significant change in facility operations is proposed. For purposes of this paragraph, a "significant change" is any change that would qualify as a class 3 permit modification under 40 CFR 270.42, as incorporated in 10 CSR 25-7.270. The requirements of this paragraph do not apply to class 1 or class 2 permit modifications, as defined in 40 CFR 270.42, as incorporated in 10 CSR 25-7.270, or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

B. At least ninety (90) days prior to submitting a permit application *[for a] to construct, substantially alter, or operate a hazardous waste disposal facility*, the applicant shall submit to the department a letter of intent *[to construct, substantially alter, or operate a hazardous waste disposal facility]*, in accordance with section 260.395.7, RSMo. The department will publish the letter within ten (10) days of receipt. The letter will be published as specified in section 493.050, RSMo. The letter will be published once a week for four (4) consecutive weeks in a newspaper of general circulation serving the county in which the facility is currently or proposed to be located.

C. Prior to submitting a permit application for a facility, the applicant shall hold at least one (1) public meeting to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide an opportunity for attendees to voluntarily provide their names and addresses.

D. The applicant shall submit a summary of the meeting, the list of attendees and their addresses developed under subparagraph (1)(B)1.C. of this rule, and copies of any written comments or materials submitted at the meeting to the department as a part of the permit application, in accordance with 40 CFR 270.14(b), as incorporated in 10 CSR 25-7.270.

E. The applicant shall provide public notice of the pre-application meeting at least thirty (30) days prior to the meeting. The applicant shall maintain, and provide to the department as part of the permit application, documentation of the notice.

(I) The applicant shall provide public notice in all of the following forms:

(a) A newspaper advertisement. The applicant shall publish a notice as a display advertisement in a newspaper of general circulation serving the county or equivalent jurisdiction where the current or proposed facility is located. In addition, the applicant shall publish the notice in newspapers of general circulation serving adjacent counties or equivalent jurisdictions;

(b) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility. If the applicant places the sign on the facility property, the sign shall be large enough to be read from the nearest point where the public would pass by the site;

(c) A broadcast media announcement. The applicant shall broadcast a notice as a paid advertisement at least once on at least one (1) local radio station or television station. The applicant may employ another medium with the prior written approval of the department; and

(d) In addition to the department, the applicant shall send a copy of the newspaper advertisement to the units of state and local government described in subpart (1)(A)10.C.(I)(d) of this rule.

(II) All notices *[required]* under this subparagraph shall

include:

- (a) The date, time, and location of the meeting;
- (b) A brief description of the purpose of the meeting;
- (c) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the current or proposed facility location;
- (d) A statement encouraging people to contact the facility at least seventy-two (72) hours before the meeting if they need special access to participate in the meeting; and
- (e) The name, address, and telephone number of a contact person for the applicant.

2. Public notice requirements at the permit application stage.

A. Applicability. The requirements of this paragraph *[shall]* apply to all new permit applications for hazardous waste management units and permit applications for renewal of permits for such units under 40 CFR 270.51, as incorporated in 10 CSR 25-7.270. The requirements of this paragraph do not apply to permit modifications, as defined in 40 CFR 270.42, as incorporated in 10 CSR 25-7.270, or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

B. Notification at permit application submittal.

(I) The department shall provide public notice as set forth in subpart (1)(A)10.C.(I)(c) of this rule, and notice to the appropriate units of state and local government as set forth in subpart (1)(A)10.C.(I)(d) of this rule, that a complete permit application has been submitted to the department and is available for review.

(II) The notice will be published within a reasonable period of time after the department determines that the permit application is complete. The notice must include:

- (a) The name and telephone number of the applicant's contact person;
- (b) The name and telephone number of the department contact person and a mailing address to which information and inquiries may be directed throughout the permitting process;
- (c) An address to which people can write in order to be put on the facility mailing list;
- (d) A location where copies of the permit application and any supporting documents can be viewed and copied;
- (e) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the current or proposed facility location on the front page of the notice; and
- (f) The date that the permit application was submitted.

C. Concurrent with the notice *[required]* under subparagraph (1)(B)2.B. of this rule, the department will place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the department's office as identified in the notice.

3. Information repository.

A. Applicability. The requirements of this paragraph apply to all applicants seeking hazardous waste management facility permits.

B. The department shall assess the need, on a case-by-case basis, for a local information repository. When assessing the need for a local information repository, the department will consider a variety of factors, including the level of public interest, the type of facility, and the presence of an existing repository. If the department determines, at any time after submittal of a permit application, that there is a need for a local repository, then the department will notify the facility that it must establish and maintain a local information repository.

C. The information repository shall contain all documents, reports, data, and information deemed necessary by the department to fulfill the purposes for which the repository is established. The department will have the discretion to limit the contents of the repository.

D. The information repository shall be located and maintained at a location chosen by the facility. If the department finds the

location unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, the department will specify a more appropriate location.

E. The department will specify requirements the applicant must meet for informing the public about the local information repository. At a minimum, the department will require the applicant to provide a written notice about the information repository to all individuals on the facility mailing list.

F. The applicant shall be responsible for maintaining and updating the repository with appropriate information throughout the time period specified by the department. The department may close the repository at its discretion, based on the factors in subparagraph (1)(B)3.B. of this rule.

(2) Appeal of Final Decision.

(A) For purposes of this section, a final permit decision means the issuance, denial, partial or total modification, or revocation of a permit. The requirements of this section apply to final permit decisions, closure plan approvals, post-closure plan approvals, and any condition of a final permit decision or approval.

(B) The applicant or any aggrieved person may appeal to have the matter heard by the Administrative Hearing Commission. To initiate the appeal, the aggrieved party must follow the procedure established in 10 CSR 25-2.020 and sections 260.395.11 and 621.250, RSMo. Written petitions must be filed within thirty (30) days after the date the final permit decision or approval was mailed or the date it was delivered, whichever was earlier. If the written petition is sent by registered or certified mail, the petition will be deemed filed on the date it was mailed. If the written petition is sent by any other method, the petition will be deemed filed on the date it is received by the Administrative Hearing Commission. The written petition *[shall set forth] describes* the grounds for the appeal. *The appeal shall be and the appeal is* limited to issues raised during the public comment period and not resolved in the final permit decision or approval to the applicant's or aggrieved person's satisfaction. Issues included in the written petition outside those raised during the public comment period *[shall not be] are not* considered; however, the Administrative Hearing Commission may consider an appeal of a condition in the final permit decision or approval that was not part of the draft permit or proposal and therefore could not have been commented on during the public comment period.

(C) Any appeal under this section *[shall be] is* a contested case and *[shall be] is* conducted under section 260.400, RSMo.

(D) Any party described in subsection (2)(G) of this rule may petition the Administrative Hearing Commission for an interlocutory order staying the effectiveness of a final permit decision, a closure plan approval, a post-closure plan approval, or any condition of a final permit decision or approval which is subject to an appeal, until the Missouri Hazardous Waste Management Commission enters its final order upon the appeal. At any time during the proceeding, the applicant may apply to the Administrative Hearing Commission for relief from a stay order previously issued.

1. In determining whether to grant a stay or relief from a stay, the Administrative Hearing Commission will consider the likelihood that the petition will eventually succeed on the merits, the potential for harm to the applicant, business, industry, public health, or the environment if the requested stay or relief is or is not granted, and the potential magnitude of the harm.

2. Any decision concerning a petition for a stay or relief from a stay *[shall not be] is not* considered a contested case or a final order and *[shall be] is* made by a majority of the sitting quorum of the Administrative Hearing Commission.

3. The stay of any final permit decision pending appeal to the Administrative Hearing Commission *[shall have] has* the effect of continuing the effect and enforceability of any existing permit until the Missouri Hazardous Waste Management Commission issues a final order upon the appeal, unless the stay is lifted sooner by the

Administrative Hearing Commission. During the appeal proceeding, the stay of any condition of a final permit decision pending appeal *[shall]* does not relieve the applicant of complying with all conditions of the final permit decision not stayed.

4. No petition for a stay order or relief from a stay order shall be presented to the Administrative Hearing Commission on less than ten (10) days' notice to all other parties to the proceeding.

(E) A timely written petition of appeal stays the effectiveness of a final permit revocation decision. If a timely written petition of appeal is not filed, the final permit revocation becomes effective thirty (30) days after the department signs the decision.

(F) *[Public notice of the appeal hearing,] Any public notice of appeals*, including the time, date, and place of the appeal hearing, *[shall be given] will be given by the Administrative Hearing Commission* in accordance with *[part (1)(A)10.C.(II) of this rule. The department will mail a copy of the notice to all persons identified in subparts (1)(A)10.C.(I)(a) and (c) of this rule. After the Hazardous Waste Management Commission issues a final appeal decision, the department will notify the participants in the appeal hearing and each person who requested notice of the final appeal decision. The department will also send a news release announcing the final appeal decision to the media serving the area where the facility is currently or proposed to be located]* **260.400, RSMo.**

(G) The participants in an appeal hearing shall be—

1. The department;
2. The applicant;
3. Any aggrieved person filing a timely written petition of appeal; and
4. Any person who files a timely application for intervention and is granted leave to intervene of right or permissive intervention. Any person desiring to intervene in an appeal shall file with the Administrative Hearing Commission, an application to intervene according to the procedures of Rule 52.12, Supreme Court Rules of Civil Procedure.

A. The application to intervene shall state the interests of the intervener, the grounds upon which intervention is sought, and a statement of the position which the intervener desires to take in the proceeding. The intervener shall serve a copy of the application to intervene on each of the parties to the proceeding as determined under part (1)(A)10.C.(II) of this rule.

B. The Administrative Hearing Commission or duly appointed hearing officer will grant or deny the application to intervene pursuant to Rule 52.12, Supreme Court Rules of Civil Procedure. The Administrative Hearing Commission or hearing officer may condition any grant of intervention as the circumstances may warrant.

(H) A tape recording or written transcript of the appeal hearing shall be made available to the public.

### (3) Transporter License.

(A) Issuance or Denial of a Transporter License.

1. Upon receipt of a complete application for a transporter license, the department will determine whether the application conforms to the requirements of sections 260.385 and 260.395, RSMo, and 10 CSR 25-6. The department will notify the applicant of its decision to issue, with or without conditions, or denying the license. If the license is denied, the department will specify the reasons for the denial. No license will be issued until the fees *[required by]* **specified in** section 260.395.1, RSMo, have been paid.

2. The procedure for appealing a license issuance, denial, or any condition of a license *[shall be]* is the same as the procedure for appealing a final permit decision under section (2) of this rule.

(B) Revocation of a Transporter License.

1. Transporter licenses may be revoked for the reasons specified in sections 260.379.2, 260.395.3, 260.410.3, and 260.410.4, RSMo, or for failure to comply with sections 260.395.1(2) and 260.395.1(3), RSMo.

2. The department may initiate proceedings to revoke a trans-

porter license. If the department proposes to revoke a transporter license, it will send a notice of intent to revoke by certified mail to the licensee, specifying the provisions of sections 260.350–260.434, RSMo, 10 CSR 25-6, the conditions of the license or the provisions of an order issued to the licensee that the licensee has violated, the manner in which the licensee misrepresented or failed to fully disclose relevant facts, or the manner in which the activities of the licensee endanger human health or the environment or are creating a public nuisance.

3. The procedure for appealing a license revocation *[shall be]* is the same as the procedure for appealing a permit revocation under section (2) of this rule. A timely written petition for appeal stays the effectiveness of a license revocation. If a timely written petition for appeal is not filed, the revocation *[shall become]* is effective thirty (30) days after the department signs the revocation decision.

### *[(4) Resource Recovery Facility Certifications.*

(A) *Issuance of Resource Recovery Facility Certifications.* Upon receipt of a complete application for resource recovery facility certification, the department will determine whether the application conforms to the requirements of section 260.395.13, RSMo, and 10 CSR 25-9.020. The department will notify the applicant of its decision to issue, with or without conditions, or deny the certification. If the certification is denied, the department will specify the reasons for the denial. The procedure for appealing a certification issuance, denial, or any condition of a certification will be the same as the procedure for appealing a final permit decision under section (2) of this rule.

(B) *Modification of Resource Recovery Facility Certifications.*

1. The department may modify a resource recovery facility certification under any of the following circumstances:

- A. When required to prevent violations of the requirements of section 260.395.14, RSMo, or 10 CSR 25-9.020;
- B. When relevant facts have been misrepresented or not fully disclosed;
- C. When required to protect the health of humans or the environment or to prevent or abate a public nuisance;
- D. When the facility proposes changing any waste stream(s) managed by the facility; or
- E. When the facility proposes changing any processes or equipment utilized for resource recovery operations at the facility.

2. If the department proposes to modify the resource recovery facility certification, it will send a notice of intent to modify by certified mail to the certificate holder, specifying the reasons for the proposed modification and the manner in which the certificate is proposed to be modified.

3. The facility may appeal any certification modifications, except those requested by the facility that were approved as proposed without further modification. The procedure for appealing a certification modification shall be the same as the procedure for appealing a final permit decision under section (2) of this rule.

(C) *Revocation of Resource Recovery Facility Certifications.*

1. The department may initiate proceedings to revoke a resource recovery facility certification. If the department decides to revoke a resource recovery facility certification, it will send a final revocation by certified mail to the certificate holder, specifying the provisions of section 260.395.14, RSMo, 10 CSR 25-9.020, or an order issued to the certificate holder that have been violated, the manner in which the certificate holder misrepresented or failed to fully disclose relevant facts, or the manner in which the activities at the facility endanger human health or the environment or are

creating a public nuisance.

2. Resource recovery facility certifications may be revoked for the reasons specified in paragraph (4)(B)1. of this rule.

3. The procedure for appealing a certification revocation shall be the same as the procedure for appealing a permit revocation under section (2) of this rule. A timely written petition for appeal stays the effectiveness of a certification revocation. If a timely written petition for appeal is not filed, the revocation shall become effective thirty (30) days after the department signs the revocation decision.]

[(5)](4) Variances.

(A) Applicability. According to section 260.405.1, RSMo, unless prohibited by any federal hazardous waste management act, the Hazardous Waste Management Commission may grant individual variances from the requirements of sections 260.350 to 260.430, RSMo, whenever it is found, upon presentation of adequate proof, that compliance will result in an arbitrary and unreasonable taking of property or in the practical closing and elimination of any lawful business, occupation, or activity, in either case without sufficient corresponding benefit or advantage to the people. The commission will not consider any petition for variance that would permit the occurrence or continuance of a condition that unreasonably poses a present or potential threat to the health of humans or other living organisms. The department may require any petitioner for a variance to submit mailing lists and mailing labels [required] to accomplish the public notice requirements of this section.

(B) Evaluation. Upon receipt of any petition for a variance, the department will evaluate the petition to determine whether the request is substantive or non-substantive based upon the effect of the proposed variance on facility operations, types of waste, type and volume of hazardous waste management units, location of facility, public interest, and compliance history. Variances from generator or transporter requirements will be deemed non-substantive provided all conditions of subsection (3)(A) of this rule are met.

(C) Substantive Variance. If a variance petition is deemed substantive, the department will—

1. Upon receipt—

A. Mail a notice to all record owners of real property located within one (1) mile of the outer boundaries of the facility, the highest elected official of the county, and the highest elected official of the city, town, or village having jurisdiction over the area where the facility is located; and

B. Issue a news release to the media and publish a legal notice in a newspaper of general circulation serving the area where the facility is located;

2. Within sixty (60) days of receipt—

A. Prepare a recommendation as to whether the variance should be granted, granted with conditions, or denied;

B. Submit the recommendation to the Missouri Hazardous Waste Management Commission;

C. Notify the petitioner of the recommendation;

D. Publish a legal notice regarding the recommendation in a newspaper of general circulation serving the area where the facility is located; and

E. Mail a notice regarding the recommendation to all record owners of real property adjacent to the facility, the highest elected official of the county, and the highest elected official of the city, town, or village having jurisdiction over the area where the facility is located; and

3. Request a formal hearing before the Missouri Hazardous Waste Management Commission or a duly appointed hearing officer on the variance petition and the department's recommendation, as provided in section 260.400, RSMo.

(D) Non-Substantive Variance. If a variance petition is deemed non-substantive, the department will comply with paragraph (5)(C)2. of this rule. The Missouri Hazardous Waste Management

Commission will hold a formal hearing as provided in section 260.400, RSMo, if requested by the petitioner. A request for a formal hearing may also be made by any aggrieved person if the department's recommendation is to grant the variance with or without conditions. Any request by the petitioner or aggrieved person for a formal hearing shall be made in writing within thirty (30) days of the date the legal notice regarding the recommendation is published.

(E) Final Decision. If no formal hearing is requested, the Missouri Hazardous Waste Management Commission shall make a decision on the variance at a public meeting held no earlier than thirty (30) days from the date the legal notice regarding the recommendation was published.

(F) Hearing Procedures. Any hearings under this section [shall be] are a contested case pursuant to section 260.400 and Chapter 536, RSMo. The participants [shall be] are the department, the petitioner, any aggrieved person who requests a formal hearing, and any person who files a timely application for intervention and is granted leave to intervene. Any person desiring to intervene shall file an application to intervene with the Missouri Hazardous Waste Management Commission secretary within thirty (30) days from the date the legal notice regarding the recommendation is published.

1. The application to intervene shall state the interests of the intervener, the grounds upon which intervention is sought, and a statement of the position that the intervener desires to take in the proceeding. The intervener shall serve a copy of the application to intervene on each of the parties listed in subsection (5)(F) of this rule.

2. The Missouri Hazardous Waste Management Commission or duly appointed hearing officer will grant or deny the application to intervene pursuant to Rule 52.12, Supreme Court Rules of Civil Procedure. The Missouri Hazardous Waste Management Commission or hearing officer may condition any grant of intervention as the circumstances may warrant.

(G) If the applicant fails to comply with the terms and conditions of the variance as specified by the Missouri Hazardous Waste Management Commission, the variance may be revoked or modified by the commission after a formal hearing held after no less than thirty (30) days' written notice. The department will notify all persons who will be subjected to greater restrictions if the variance is revoked or modified and each person who requested notice from the department.

*AUTHORITY: sections 260.370, [RSMo Supp. 2013, and sections] 260.400, 260.405, and 260.437, RSMo [2000] 2016. Original rule filed June 1, 1998, effective Jan. 30, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To*

*be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 9—Resource Recovery**

**PROPOSED RESCISSION**

**10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes.**  
This rule established a system of issuing certificates to individuals or facilities engaged in the recovery or recycling of hazardous waste.

*PURPOSE: This rule is being rescinded because entities subject to its requirements have alternative requirements in place that allow them to engage in the same activity without needing to obtain a certificate from the department. The alternative requirements are contained in a federal rule that will be proposed for adoption in Missouri. These conditions established in the federal rule will ensure that recycling and handling of this material is done in a safe and protective manner, while the burdens of the existing rule and resource recovery certification process are not producing a corresponding environmental benefit.*

*AUTHORITY: sections 260.370, 260.373, and 260.395, RSMo Supp. 2013, and section 260.437, RSMo 2000. Original rule filed Feb. 16, 1990, effective Dec. 31, 1990. For intervening history, please consult the Code of State Regulations. Rescinded: Filed June 12, 2018.*

*PUBLIC COST: This proposed rescission will cost state agencies or political subdivisions eighty-two thousand five hundred sixty-one dollars (\$82,561) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

*Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Rule Number and Name:	10 CSR 25-9.020, Hazardous Waste Resource Recovery Processes
Type of Rulemaking:	Rescission

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	Loss of \$22,000 annually in oversight costs
Department of Natural Resources	Loss of \$53,561 annually in hazardous waste tonnage fees for recycled hazardous secondary material
Department of Natural Resources	Loss of \$7,000 in fixed costs related to Department's role in review of resource recovery certificates
Total annual loss to Department of Natural Resources	\$82,561

**III. WORKSHEET*****Cost Recovery for resource recovery facilities***

Amount charged in FY 17 for oversight related to issuance of resource recovery certificate:

\$22,000

Fixed costs for oversight of resource recovery certificates in FY 17:

\$7,000

**Loss of hazardous waste fees on excluded material**

\$53,561 – based on FY 17 adjusted for projects which have already been exempted

Total annual loss = \$22,000 + \$7,000 + \$53,561

#### IV. ASSUMPTIONS

1. Approximately 20 facilities operate under resource recovery certificates. The actual amount varies as certificates expire and are reissued. Current certificate holders would no longer need certificates if the rule is rescinded assuming they instead operate under the exclusion from the definition of solid waste for recycled hazardous secondary material
2. Hazardous waste fees based on the amount of hazardous waste generated would no longer apply to hazardous secondary materials recycled under one of the exclusions proposed for adoption.
3. The Department would also no longer collect fees associated with the oversight of resource recovery facilities
4. Administrative/facility inspection burden would shift from the Permits Section of the Department's Hazardous Waste Program to the program's Compliance and Enforcement Section as well as the Department's Regional Offices.
5. Loss of hazardous waste fees is based on the amount of fees charged for this material in FY 17 that would have been lost if the material was not considered hazardous waste
6. Although the amount generated in any one year may vary, the Department assumes a constant amount for purposes of this fiscal note

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 10—Abandoned or Uncontrolled Hazardous  
Waste Disposal Sites**

**PROPOSED RESCISSION**

**10 CSR 25-10.010 Abandoned or Uncontrolled Hazardous Waste Disposal Sites.** This rule implements a statute that establishes the Missouri Registry of Abandoned or Uncontrolled Hazardous Waste Disposal Sites.

*PURPOSE:* The rule is proposed for rescission because a review of the rule as part of the department's Red Tape Reduction initiative revealed that much of the rule merely restates language that is already in the statute itself. The few elements of the rule not found in the statute are no longer necessary. Because of the duplicative language and the fact that some of the information is outdated, the burdens of implementing the requirements written in the existing rule are not producing a corresponding environmental benefit.

*AUTHORITY:* sections 260.370, 260.437, 260.440, 260.445 and 260.455, RSMo Supp. 2000. Original rule filed Aug. 14, 1984, effective March 1, 1985. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 12, 2018.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 11—Used Oil**

**PROPOSED AMENDMENT**

**10 CSR 25-11.279 Recycled Used Oil Management Standards.** The commission proposes to amend sections (1), (2), and (3) of the rule.

*PURPOSE:* All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing reg-

ulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR parts 110.1, 112, and 279, July 1, 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) [shall apply] applies in this rule in addition to any other modifications set forth in section (2) of this rule. [Where conflicting rules exist in 10 CSR 25, the more stringent shall control.]

(2) This section sets forth specific modification to 40 CFR part 279, incorporated by reference in section (1) of this rule. A person managing used oil shall comply with this section in addition to the regulations in 40 CFR part 279. In the case of contradictory or conflicting requirements, the more stringent [shall] rules control. (Comment: This section has been organized so that Missouri additions, changes, or deletions to a particular lettered subpart in 40 CFR part 279 are noted in the corresponding lettered subsection of this section. For example, changes to 40 CFR part 279 subpart A are found in subsection (2)(A) of this rule.)

(D) Standards for Used Oil Collection Centers and Aggregation Points. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart D.

1. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points owned by the generator may accept used oil from farmers not regulated under 40 CFR part 279 subpart C.

2. In addition to the requirements of 40 CFR part 279 subpart D, do-it-yourselfer used oil collection centers, used oil aggregation points, and used oil collection centers shall notify the solid waste district in which they operate or the department's Hazardous Waste Program of their used oil collection activities.

A. Notification shall be by letter and [shall] include the following:

(I) The name and location of the collection center;

(II) The name and telephone number of the owner or operator;

(III) The name and telephone number of the facility contact, if different from the owner or operator;

(IV) The type of collection center; and

(V) The dates and hours of operation.

B. The notification submitted by a used oil collection center will satisfy the requirement of 40 CFR 279.31(b)(2) that the used oil collection center be recognized by the state.

C. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points shall notify the solid waste district in which they operate or the department's Hazardous Waste Program when their used oil collection activities cease.

D. The notifications to operate or cease to operate received by a solid waste district shall be transmitted to the department's Hazardous Waste Program for public information purposes or be incorporated in the information submitted to the department as part of their regular reporting requirements.

3. No quantity of used oil collected by do-it-yourselfer oil collection centers, used oil collection centers, and used oil aggregation points shall be stored for more than twelve (12) months at the collection center or aggregation point.

4. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

5. Used oil collection centers, do-it-yourselfer used oil collection centers, and used oil aggregation points shall have a means of

controlling public access to the used oil storage area.

A. Access control may be an artificial or natural barrier which completely surrounds the storage area or access control may be achieved by storing the used oil inside a locked building.

B. An attendant shall be present when the public has access to the do-it-yourselfer used oil collection center, used oil collection center, and used oil aggregation point. No public access shall be allowed to the stored used oil when the collection center or aggregation point is unattended.

(E) Standards for Used Oil Transporters and Transfer Facilities. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart E.

1. In addition to the requirements of 40 CFR 279.42, transporters of used oil shall be licensed in accordance with the requirements in 10 CSR 25-6.263.

2. In addition to the requirements of 40 CFR 279.45(d)-(f), incorporated by reference in this rule, secondary containment systems shall have a capacity equal to or greater than ten percent (10%) of the containerized waste volume, or the volume of the largest container, whichever is greater. (Note: Facilities that store used oil in tanks near navigable waters may be subject to the spill prevention, control, and counter-measures standards found in 40 CFR 112.)

3. In addition to the requirements of 40 CFR 279.46, incorporated by reference in this rule, the following shall apply:

A. *[The information described in 40 CFR 279.46(a)-(c), incorporated by reference in this rule, shall be recorded on form MO 780-1449(11-93), the Transporter's Used Oil Shipment Record, incorporated by reference in this rule and provided by the department; and] (Reserved)*

B. All transporters who transport one thousand (1,000) gallons or more used oil in a reporting period must submit the information described in 40 CFR 279.46(a) and (b) to the director of the department's Hazardous Waste Program annually, on form MO 780-1555, the Transporter's Annual Report Form, incorporated by reference in this rule and provided by the department. The form shall include information for a reporting period from July 1 to June 30, and *[shall]* be submitted by August 31 following the reporting period.

4. In addition to the requirements of 40 CFR 279.46 incorporated in this rule, transporters of used oil operating a transfer facility shall maintain an inventory log to assure the off-site shipment of used oil within thirty-five (35) days.

5. In addition to the requirements of 40 CFR 279.46(d), incorporated in this rule, the inventory log described in paragraph (2)(E)4. of this rule shall be maintained for at least three (3) years, or longer if *[required]* requested by the department.

6. In addition to the requirement of 40 CFR 279.47, used oil transporters who operate a transfer facility shall close the transfer facility in accordance with 10 CSR 25-6.263(2)(A)10.G.

7. Used oil transfer facilities shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

8. For shipments involving rail transportation, the initial rail transporter shall forward copies of the shipping record to—

- A. The next nonrail transporter, if any;
- B. The receiving facility if the shipment is delivered by rail;

or

C. The last rail transporter handling the used oil in the United States.

(F) Standards for Used Oil Processors and Re-Refiners. This subsection sets forth requirements which modify or add to those *[required by]* in 40 CFR part 279 subpart F.

1. In 40 CFR 279.52(b)(6)(iv)(B), incorporated in this rule, the government official described as the on-scene coordinator shall be either the department's emergency response coordinator or the EPA Region VII emergency planning and response branch.

2. In addition to the requirements at 40 CFR 279.54(c) and (d), secondary containment systems shall have a capacity equal to or

greater than ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater. (Note: Facilities that store used oil in tanks near navigable waters may be subject to the spill prevention, control, and counter-measures standards found in 40 CFR 112.)

3. In 40 CFR 279.54(g), incorporated by reference in this rule, delete "the effective date of the authorized used oil program for the State in which the release is located," and insert in its place "the original effective date of 10 CSR 25-11.279."

4. In 40 CFR 279.52(b)(6)(viii)(C), incorporated in this rule, the state authority to be notified is the director of the department's Hazardous Waste Program.

5. Used oil processors and re-refiners shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

(G) Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart G.

1. In addition to the requirements of 40 CFR 279.64(c)-(e), secondary containment systems shall have a capacity equal to or greater than ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater. (Note: Facilities that store used oil in tanks near navigable waters may be subject to the spill prevention, control, and counter-measures standards found in 40 CFR 112.)

2. In 40 CFR 279.64(g), incorporated in this rule, delete "the effective date of the authorized used oil program for the State in which the release is located," and insert in its place "the original effective date of 10 CSR 25-11.279."

3. Used oil burners shall provide the transporter who delivers each shipment of used oil with the information *[required]* specified in 40 CFR 279.65, incorporated in this rule, and *[shall]* retain for three (3) years a copy of the completed form MO 780-1449(4-94), the Transporter's Used Oil Shipment Record for each shipment received. The period of record retention shall extend automatically during the course of any pending enforcement action, or upon the director's request. The records shall be available to authorized representatives of the department for inspection and copying during regular business hours.

4. Used oil burners shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

(H) Standards for Used Oil Fuel Marketers. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart H.

1. Used oil marketers subject to 40 CFR 279.74, incorporated in this rule, shall provide the transporter who delivers each shipment of used oil with the information *[required]* specified in 40 CFR 279.74 and *[shall]* retain for three (3) years a copy of the completed form MO 780-1449(4-94), the Transporter's Used Oil Shipment Record for each shipment received. The period of record retention shall extend automatically during the course of any pending enforcement action, or upon the director's request. The records shall be available to authorized representatives of the department for inspection and copying during regular business hours.

(I) Standards for Use as a Dust Suppressant and Disposal of Used Oil. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart I.

1. 40 CFR 279.81 is not incorporated in this rule. Instead of the requirements in 40 CFR 279.81, the following shall apply:

A. *[Used] Manage used* oil that cannot be or is not intended to be recycled *[in accordance with this rule shall be managed]* in accordance with 10 CSR 25-5, 6, 7, 9, and 13, and release of even non-hazardous used oil into the environment is prohibited.

2. The use of used oil as a dust suppressant on a road, parking lot, driveway, or other similar surface is prohibited.

3. 40 CFR 279.82 is not incorporated in this rule.

(3) Requirements for Low Concentration Polychlorinated Biphenyls (PCB) Used Oil.

*[(C)] Low concentration PCB used oil that cannot be or is not intended to be recycled in accordance with this rule shall be assigned Missouri waste code number D096. The generator shall record this waste code as any shipment record or manifest that accompanies a consignment of low concentration PCB used oil that is destined for disposal.*

*[(D)](C) A generator, transporter, or owner/operator of a hazardous waste management facility, certified resource recovery facility, or PCB facility that manages low concentration PCB used oil may be required to verify by analysis or investigation, or both, that the used oil is not PCB material as defined in 10 CSR 25-13.010.*

*[(E)](D) No person shall dispose of oily waste resulting from a spill or leak of low concentration PCB used oil in a solid waste landfill if the oily waste contains equal to or greater than one (1) pound of PCBs.*

*AUTHORITY: section 260.370, RSMo [Supp. 2013] 2016. Original rule filed Jan. 5, 1994, effective Aug. 28, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

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**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 12—Hazardous Waste Fees and Taxes**

**PROPOSED AMENDMENT**

**10 CSR 25-12.010 Fees and Taxes.** The commission proposes to amend sections (1), (2), and (3) of the rule.

*PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.*

(1) Hazardous Waste Fees Applicable to Generators of Hazardous Waste. The fees in this section apply notwithstanding any conflicting language in any other rule regarding the amount of any of the fees listed in this section.

(A) In-State Waste Fee. A generator of hazardous waste shall pay the In-State Waste Fee annually in accordance with this subsection.

1. The fee shall be paid annually on or before January 1 of each year.

2. The fee shall be based on the waste reported to the department for the twelve- (12-) month period ending June 30 of the previous year.

3. For the purpose of calculating this fee, any portion of a ton shall be assessed as though it were a whole ton.

4. *[Beginning with the reporting year covering July 1, 2016 to June 30, 2017, t]*The first ton of waste generated each year shall be assessed a fee of two hundred dollars (\$200). *[For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the minimum fee shall be one hundred fifty dollars (\$150).]*

5. *[Beginning with the reporting year covering July 1, 2016 to June 30, 2017, e]*Each additional ton of waste shall be assessed a fee of six dollars and ten cents (\$6.10). *[For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the rate shall be five dollars (\$5) per ton.]*

6. *[Beginning with the reporting year covering July 1, 2016 to June 30, 2017, n]*No generator site may be assessed a fee in excess of fifty-seven thousand dollars (\$57,000) for any given year. *[For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, no generator site may be assessed a fee in excess of fifty-two thousand dollars (\$52,000) for any given year.]*

7. Failure to pay this fee in full by the due date shall result in the imposition of a late fee equal to fifteen percent (15%) of the total original fee.

EXAMPLES OF IN-STATE WASTE FEE CALCULATION (These examples are for the rates that go into effect beginning with the July 1, 2016 to June 30, 2017 reporting year.)

Example 1. ABC Company reports 0.4 tons of hazardous waste. The number of tons would be rounded to 1 ton.

The fee would be \$200 because the fee on the 1st ton of waste is \$200.

Example 2. ABC Company reports 25 tons of hazardous waste.

$\$6.10 \times 24 \text{ tons} + \$200 \text{ for 1st ton} = \$346.40 \text{ fee}$

Example 3. ABC Company reports 11,001 tons of hazardous waste.

$\$6.10 \times 11,000 \text{ tons} + \$200 \text{ for 1st ton} = \$67,300 \text{ fee}$

The fee would be \$57,000, because that is the maximum annual fee.

8. **No fee will be assessed on [H]**hazardous waste that is discharged by a generator to a municipal wastewater treatment plant, which is regulated by a permit issued by the Missouri Clean Water Commission, *shall be assessed a fee of zero cents per ton (0¢/ton) of hazardous waste so managed.*

(B) Land Disposal Fee. A generator *[required to register]* **subject to registration** in accordance with 10 CSR 25-5.262 shall pay a land disposal fee in accordance with this subsection. *[Beginning with the reporting year covering July 1, 2016 to June 30, 2017, t]*The fee shall be paid annually, on or before January 1 of each year, at the rate of twenty-nine dollars and fifty cents (\$29.50) per ton or portion thereof for the hazardous waste reported to the department for the twelve- (12-) month period ending June 30 of the

previous year, having been discharged, deposited, dumped, or placed into or on the soil as a final action. For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the rate shall be twenty-five dollars (\$25) per ton. *[This fee shall not be]* **No fee will** be assessed on generators who land dispose less than ten (10) tons of hazardous waste.

1. Failure to pay this fee in full by the due date shall result in a fifteen percent (15%) late fee being assessed on the amount owed.

2. When this fee is paid after the prescribed due date, interest shall be assessed on the period from the fee's due date to the date the fee is paid in full at an annual rate of ten percent (10%).

EXAMPLES OF LAND DISPOSAL FEE CALCULATION (These examples are for the rates that go into effect beginning with the July 1, 2016 to June 30, 2017 reporting year.)

Example 1. ABC Company reports land disposing 9.8 tons of hazardous waste. The fee would not be assessed since less than 10 tons of waste was land disposed.

Example 2. ABC Company reports land disposing exactly 10 tons of hazardous waste.

$\$29.50 \times 10 \text{ tons} = \$295 \text{ fee}$

Example 3. ABC Company reports land disposing 124.3 tons of hazardous waste. The number of tons would be rounded to 125.

$\$29.50 \times 125 \text{ tons} = \$3,687.50 \text{ fee}$

(C) *[A generator required to register in accordance with 10 CSR 25-5.262 shall pay a landfill tax of two percent (2%) of the gross charges and fees charged for disposal, which is collected by the landfill owner/operator when depositing waste at a hazardous waste landfill.] (Reserved)*

(E) Registration Fee. A generator *[required to register]* **subject to registration** in accordance with 10 CSR 25-5.262 shall pay the following registration fees:

1. *[Prior to October 1, 2016, all new generator registration and registration renewal fees will be one hundred dollars (\$100). Beginning October 1, 2016, all new generator registration and registration renewal fees that will cover calendar year 2017 and beyond will be assessed at the new rates established in this subsection. The amount of the registration fee]* **All new generator registration and renewal fees** will be based upon the generator status of the generator. The fee schedule is as follows:

A. A generator registering as a Large Quantity Generator shall pay a registration fee of five hundred dollars (\$500);

B. A generator registering as a Small Quantity Generator shall pay a registration fee of one hundred fifty dollars (\$150); and

C. A generator registering as a Conditionally Exempt Small Quantity Generator shall pay a registration fee of one hundred fifty dollars (\$150);

2. A registration fee will be paid with the submittal of the registration form required by 10 CSR 25-5.262 when one (1) of the following is true:

A. The generator is applying for a new ID number (initial registration);

B. The generator is reactivating an existing ID number that had been inactivated;

C. There has been a change in the ownership of the generator (initial registration for the new company); and

D. A SQG or CESQG who changes their generator status to LQG and has already paid the one hundred fifty dollar (\$150) registration fee for the year as required by this subsection shall pay three hundred fifty dollars (\$350) with the submittal of the required registration form;

3. The following constitutes the procedure for registration renewal:

A. The amount of the registration renewal fee is also based upon the generator status of the generator at the time the invoice is generated and uses the same schedule as the registration fee;

B. The calendar year shall constitute the annual registration period;

C. Annual registration renewal billings will be sent by December 1 of each year to all generators holding an active registration;

D. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but *[shall]* not *[pay]* the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, they shall pay the annual renewal fee. *For any generator registering between October 1, 2016 and December 31, 2016, the initial registration fee will be assessed at the new rates established in this subsection for the calendar year that begins on January 1, 2017;*

E. Any generator *[required to register]* **subject to registration** who fails to pay the annual renewal fee by the due date specified on the billing shall be administratively inactivated and subject to enforcement action for failure to properly maintain their registration;

F. Generators administratively inactivated for failure to pay the renewal fee in a timely manner, who later in the same registration year pay the annual renewal fee, shall pay a fifteen percent (15%) late fee in addition to the *[required]* annual renewal fee for each applicable registration year and shall file an updated generator registration form with the department before their registration is reactivated by the department;

G. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay a fifteen percent (15%) late fee in addition to the *[required]* annual renewal fee and file an updated generator registration form with the department before their registration is reactivated by the department; and

H. **The department will immediately revoke the registration of** *[A]*any person who pays the annual renewal fee with what is found to be an insufficient check *[shall have the registration immediately revoked]*; and

4. Large quantity generator registration renewal petition process. A generator may petition to have a single large quantity generator registration renewal fee cover multiple generator sites with different ID numbers as long as at least one (1) generator site is a large quantity generator and the generator can demonstrate to the satisfaction of the department that each of the following conditions has been met:

A. All of the generator sites are owned or leased by the same person and all are under control of the same person;

B. The generator provides a single point of contact for all generator sites within the group;

C. Each generator site is adjacent to a property that also shares a border with at least one (1) other generator site in the group, or all generator sites are accessible by a common roadway, or all generator sites are within the recognized boundaries of an industrial park, warehouse district, research campus, or academic campus, provided that all generator sites are in close proximity to one another and can be inspected as a single facility;

D. The generator submits a map that shows the location of each generator site covered by the single registration fee;

E. All of the generator sites share a single contingency plan, a single repository for required records, and a unified training plan that covers all of the large quantity and small quantity generator sites; and

F. The generator must submit an updated petition and map any time a generator site is added to or removed from the group and each generator site must have an existing ID number before it can be

added to the group.

(F) **Out-of-State Waste Fee.** All owners/operators of Missouri treatment, storage, or disposal facilities shall pay annually, on or before January 1 of each year, a fee to the department of two dollars (\$2) per ton or portion thereof for all hazardous waste received from outside the state. This fee shall be based on the hazardous waste received for the twelve- (12-) month period ending June 30 of the previous year. This fee shall not be paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri. Failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee.

#### EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri.

$\$2 \times 250 \text{ tons} = \$500 \text{ fee}$

Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 411.

$\$2 \times 411 \text{ tons} = \$822 \text{ fee}$

Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 52,150.

$\$2 \times 52,150 \text{ tons} = \$104,300 \text{ fee}$

#### (2) Fees and Taxes Applicable to Transporters of Hazardous Waste.

(A) A transporter *[required to register]* **subject to registration** as a generator under 10 CSR 25-6.263 and, in accordance with 10 CSR 25-5.262, shall pay fees and taxes *[required under]* **specified** in section (1) of this rule.

(C) A hazardous waste transporter as defined at 10 CSR 25-3.260, except those exempted in subsection (E) of this section, requesting a hazardous waste transporter license in accordance with 10 CSR 25-6.263 shall submit to the department along with their license application the following fees:

1. An annual application fee of two hundred dollars (\$200); and
2. A use-based fee, calculated by adding the total licensed vehicle weight (LVW) of power units, and multiplying by the percentage of Missouri International Registration Plan (IRP) mileage (MOIRP) by the percent hazardous waste (HW) times a use rate of .0425. The formula is:  $LVW \times \%MOIRP \times \%HW \times .0425 = \text{Use Fee}$ . Fee calculations shall be submitted on forms furnished by the department in its application packet. Transporters shall base all calculations on the period of twelve (12) consecutive months immediately prior to July 1 immediately preceding the date of the license application. This time frame is known as the "previous year."

A. For those power units which utilize the International Registration Plan (IRP) or 12 CSR 20-3.010 for apportioned registration, the transporter shall use the reported Missouri IRP mileage for the previous year.

B. For those power units not required to track IRP miles, the transporter shall calculate MOIRP mileage by dividing the Missouri mileage of their power units by total mileage for the previous year.

C. The percentage of hazardous waste will be the number of hazardous waste, used oil, or infectious waste truckloads from, to, or through Missouri, divided by the total truckloads from, to, or through Missouri, in the form of a percentage, for the previous year.

D. New transporters who wish to obtain a hazardous waste license and have no "previous year" history of hauling hazardous waste, shall calculate license fees based on estimates of MOIRP mileage and percent hazardous waste.

(I) If an estimate is used to calculate the license fee, the transporter shall, within sixty (60) days of the expiration of the

license, report the actual Missouri mileage and percent hazardous waste for the current license year. The renewal fee will include the license fee for the next year, plus any money owed the department due to an underestimation of the current year, plus ten percent (10%).

(II) *[The department shall not issue]* **No refunds will be issued by the department, but the department will issue credit for license fees in excess of ten percent (10%) (overestimation) for the next license year.**

E. A transporter who wishes to add another power unit other than when applying for the annual license shall submit, along with power unit descriptions, a fee computed from this formula:  $LVW \text{ of power unit} \times \%MOIRP \times \%HW \times .0425 = \text{Use Fee}$ . Divide this figure by twelve (12), then multiply by the number of months remaining in the license year to derive the fee.

F. To replace one (1) power unit for another (due to accident, sale, or extended maintenance) submit all the required information for the replacement and a license certificate will be issued for that power unit for a limited period.

G. A temporary permit can be issued for thirty (30)/-/ days for a fee of fifty dollars (\$50) for a power unit that is, for example, a temporary lease that is added to the fleet.

3. The total fee shall not exceed twenty-five thousand dollars (\$25,000) per transporter per year.

(E) Other than power unit transporters are not subject to the requirements of subsections (C) and (D) of this section. The license fee for each mode of transport other than power units shall be three hundred fifty dollars (\$350) per transporter per year. An other than power unit transporter shall not originally include, nor add, more than one (1) mode on the same license. For example, *[a license for rail transport shall]* **for a rail transport license, do not include power unit hazardous waste transportation.**

#### (3) Fees and Taxes Applicable to Applicants for Permits or Certifications and to Owners/Operators of Treatment, Storage, and Disposal, or Resource Recovery Facilities.

(A) An owner/operator of hazardous waste treatment, storage, or disposal facility shall pay fees and taxes *[required]* **as specified** in subsections (1)(A), (B), and (C) of this rule. An owner/operator of a hazardous waste treatment, storage, and disposal, or resource recovery facility also shall pay fees and taxes *[required]* **as specified** in section (1) of this rule for hazardous waste which is transported off-site for final disposition. (Note: These fees are not applicable to waste transported off-site for storage only; however, the fees are applicable to the waste transported from the storage facility to the point of final disposition except as provided in section (1).)

(B) A permit applicant shall pay the following fees upon application as *[required]* **specified** in subdivision 260.395.7(6), RSMo and in accordance with 10 CSR 25-7.270(2)(B)8.: One thousand dollars (\$1,000) for each hazardous waste management treatment, storage, or disposal facility. The fee shall be submitted with the application. The fee shall cover the first year of the permit, if issued, but the fee is not refundable if the permit is not issued. If the permit is to be issued for more than one (1) year, the applicant shall pay fees as *[required]* **specified** in subsection (3)(C) of this rule.

(C) A permit applicant shall pay the following fees as *[required]* **specified** in subdivision 260.395.7(6), RSMo, and in accordance with 10 CSR 25-7.270(2)(C)1.A.: One thousand dollars (\$1,000) for each hazardous waste management treatment, storage, or disposal facility for each year the permit is to be in effect beyond the first year.

(D) An applicant for a hazardous waste treatment, storage, or disposal facility permit *[for resource recovery certification]* shall pay all applicable costs in accordance with 10 CSR 25-7.270(2)(B)9., *[10 CSR 25-9.020(5),]* and as *[required]* **specified** by subdivisions 260.395.7(7) and 260.395.14(2), RSMo for engineering and geological review. Those costs for engineering and geological review will be billed in the following categories:

1. The project engineer's and geologist's time expended in the following areas:

A. Supervision of field work undertaken to collect geologic and engineering data for submission with the permit application or resource recovery certification application;

B. Review of geologic and engineering plans submitted in relation to the permit application [or resource recovery certification application];

C. Assessment and attesting to the accuracy and adequacy of the geologic and engineering plans submitted in relation to the permit application [or resource recovery certification application]; and

D. The project engineer's and geologist's time billed at the engineer's and geologist's hourly rates multiplied by a fixed factor of three and one-half (3 1/2). This fixed factor is comprised of direct labor; fringe benefits including, but not limited to, insurance, medical coverage, Social Security, Workers' Compensation, and retirement; direct overhead, including, but not limited to, clerical support and supervisory engineering review and Hazardous Waste Program administrative and management support; general overhead, including, but not limited to, utilities, janitorial services, building expenses, supplies, expenses and equipment, and department indirect costs; and engineering support, including, but not limited to, training, peer review, tracking and coordination;

2. The direct costs associated with travel to the facility site to supervise any field work undertaken to collect geologic and engineering data or to ascertain the accuracy and adequacy of geologic and engineering plans, or both, including, but not limited to, expenses actually incurred for lodging, meals, and mileage based on the rate established by the state of Missouri. These costs are in addition to the costs in paragraph (3)(D)1. of this rule; and

3. Costs directly associated with public notification and departmental public hearings, including legal notice costs, media broadcast costs, mailing costs, hearing officer costs, court reporter costs, hearing room costs, and security costs, will be billed to the applicant. In a contested case as defined in section 536.070(4), RSMo, costs related to preparing and supplying one (1) copy of the transcript(s) of the case shall not be charged to the applicant.

*[(F) The applicant for a resource recovery certificate shall pay the following fee in accordance with 10 CSR 25-9.020(4) and subdivision 260.395.14(2), RSMo when submitting the application: Five hundred dollars (\$500) if the application is for a resource recovery facility which legitimately reclaims or recycles hazardous waste on-site in accordance with 10 CSR 25-9 or one thousand dollars (\$1,000) if the application is for a resource recovery facility which receives hazardous waste from off-site for legitimate reclamation or recycling in accordance with 10 CSR 25-9.]*

**AUTHORITY:** sections 260.370, 260.380, 260.390, [and] 260.391, [RSMo Supp. 2013, sections 260.380 and] 260.395, 260.437, and 260.475, [RSMo Supp. 2014, section 260.395, RSMo Supp. 2015, and section 260.437,] RSMo [2000] 2016. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interest-

ed person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 13—Polychlorinated Biphenyls

### PROPOSED AMENDMENT

**10 CSR 25-13.010 Polychlorinated Biphenyls.** The commission proposes to amend sections (1) through (6), and sections (8) and (10) of the rule.

**PURPOSE:** All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR parts 761.3, 761.30(a)(2)(v), 761.60(b)(1)(i)(B), 761.60(g), 761.65(b), 761.71, 761.79, 761.72, and 761.180(b), July 1, 2013, as published by the Office of Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) [shall apply] applies in this rule in addition to any other modifications set forth in this rule. [Where conflicting rules exist in 10 CSR 25, the more stringent shall control.]

(2) Applicability.

(A) This rule [shall apply] applies in the state of Missouri to all polychlorinated biphenyls (PCB) material and PCB units as defined in subsection (3)(A) in shipment to or from or managed at a Missouri PCB facility.

(B) Used oil containing PCBs at a concentration of less than fifty parts per million (50 ppm) and not otherwise meeting the definition of PCB material shall be managed in accordance with 10 CSR 25-11.

(C) Where conflicting regulations exist in 10 CSR 25, the more stringent [shall] controls.

(D) This rule does not relieve a regulated person from his/her responsibility to comply with the federal Toxic Substances Control Act, 15 USC 2601-2629 (December 22, 1987) or the corresponding regulations.

(3) Definitions and Substitution of Terms. This section supplements and modifies the definitions in 10 CSR 25-3 and 10 CSR 25-7.

(C) [The following terms shall be substituted] **Substitute the following terms** in the portions of 40 CFR Part 264, 40 CFR Part 265, 40 CFR Part 270, and 10 CSR 25 that apply in this rule:

1. "PCB material," "PCB units," or both [shall be substituted] for "hazardous waste";

2. "PCB facility" *[shall be substituted]* for "hazardous waste facility"; "hazardous waste treatment, storage or disposal facility"; "treatment, storage or disposal facility"; and "HWM facility"; and

3. "PCB facility permit" *[shall be substituted]* for "Part B permit" and "RCRA permit."

(4) Manifesting, Record Keeping, and Reporting.

(A) *[Assignment of PCB Identification Numbers. PCB material and PCB units are assigned the following PCB identification numbers:] (Reserved)*

*[M001 Mineral oil dielectric fluid containing equal to or greater than fifty parts per million (50 ppm) PCBs but less than five hundred parts per million (500 ppm) PCBs.*

*M002 PCB-contaminated electrical equipment with dielectric fluid.*

*M003 PCB-contaminated electrical equipment that has been drained of all free-flowing liquids.*

*M004 Dielectric fluid containing greater than five hundred parts per million (500 ppm) PCBs.*

*M005 PCB transformers with dielectric fluid.*

*M006 PCB transformers that have been drained of all free-flowing liquids.*

*M007 PCB transformers that have been flushed with solvent as prescribed in 40 CFR 761.60(b)(1)(i)(B).*

*M008 Capacitors contaminated with PCBs.*

*M009 Soil, solids, sludges, dredge materials, clothing, rags, or other debris contaminated with PCBs.*

*M010 PCB-contaminated solvent. (Note: Any PCB-contaminated solvent that meets the definition of hazardous waste shall further be identified by the appropriate EPA identification number.)*

*M011 Other PCB material.*

*M012 Other PCB units.]*

(B) Manifests. All shipments destined to or originating from a Missouri PCB facility shall meet the requirements of 40 CFR 761.207 through 40 CFR 761.219. Any *[required]* reports *[shall be]* **specified in these regulations are to be** submitted to the department as well as to the EPA Regional Administrator.

(D) Reporting Requirements. The owner or operator of a PCB facility shall **complete and** submit the following reports to the department:

1. *[The owner or operator shall submit an annual report] An annual report prepared in accordance with 40 CFR 761.180(b)* by July 15 of each year that covers the previous calendar year. *[The annual report shall be prepared in accordance with 40 CFR 761.180(b).]*

2. *[The owner or operator shall complete and submit,] A quarterly report that includes the following information* within forty-five (45) days after the end of each calendar quarter, *a quarterly report that includes the following information]:*

A. The name, address, and phone number of the facility;

B. The quarter for which the report is prepared;

C. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) received during the quarter. For the purpose of this report, any dielectric fluid drained from electrical equipment shall be designated as M001 or M004, as applicable;

D. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) generated on-site;

E. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) treated on-site and the method of treatment;

F. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) transferred to other treatment, storage, or disposal facilities. A summary shall be prepared for each individual facility utilized and shall include a list of shipping dates and the method of final disposition;

G. A summary of the total quantity of PCB material and PCB

units (designated by PCB identification number) retained at the facility at the end of the reporting quarter;

H. In chronological order, a copy of each PCB manifest received during the reporting quarter;

I. In chronological order, all completed manifests utilized for off-site shipments during that calendar quarter; and

J. A certification **with original signature of the owner or operator** which reads: "CERTIFICATION: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete for the quarterly accounting of PCB material so handled, and the operations of the facility referenced herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." *[The original signature of the owner or operator shall follow this certification.]*

(E) Operating Record. The owner or operator of a PCB facility shall maintain a written operating record. This subsection sets forth record keeping requirements for storage and transfer operations. A PCB facility shall also comply with the applicable record keeping requirements set forth in sections (7) and (8) of this rule. The information *[required]* **specified** in this subsection shall be recorded, as it becomes available, and maintained in the operating record of the facility until closure of the facility.

1. When PCB material is transferred from a PCB article or PCB container to a PCB container (for example, bulk tank or drum), the owner or operator shall record the following information:

A. The date of transfer;

B. The quantity of PCB material transferred;

C. The appropriate PCB identification number or some other reference to the type of material and PCB concentration;

D. Identification of the container into which the PCBs were transferred; and

E. The manifest document number from the manifest that accompanied the consignment or some other type of cross reference to the manifest document number.

2. When PCB material is transferred from a bulk tank to a tank truck, the owner or operator shall record information that indicates—

A. The date transported;

B. The tank identification and tank level or the quantity of PCB material removed from the tank; and

C. The manifest document number(s) associated with the off-site shipment(s).

(5) Transporter Requirements.

(D) In addition to existing state and federal requirements, the department may require that **PCB transporters use** specific safety equipment, spill control equipment, and spill cleanup procedures *[be utilized by PCB transporters]*.

(6) Provisionally Regulated PCB Facilities.

(A) A PCB facility that meets the following criteria is defined as a provisionally regulated PCB facility:

1. *[The facility accepts only PCB waste numbers M002 and M003 for treatment and storage;] (Reserved)*

2. The quantity of PCB material accumulated on-site never exceeds ten thousand pounds (10,000 lbs);

3. The quantity of large PCB units accumulated on-site never exceeds fifty (50) units; and

4. The treatment processes conducted at the facility are limited to decontamination of PCB units that contained less than five hundred parts per million (500 ppm) PCBs.

(B) The owners or operators of provisionally regulated PCB facilities shall *[comply with the following]*:

1. *Notification. The facility owner or operator shall* submit a notification letter to the department prior to commencing operation as a PCB facility. *The notification letter shall* **that**

includes the following information:

*[A.]1.* The facility name, address, and telephone number; and  
*[B.]2.* A description of the existing and proposed treatment and storage methods and capacities;

*[2.]3.* Manifesting. PCB articles that are transported to a facility for the purpose of servicing need not be accompanied by a manifest; and

*[3.]4.* Owners or operators of PCB-contaminated metals reclamation incinerators shall meet the minimum technical standards in subsection (12)(A) of this rule.

(8) Standards for Owners and Operators of PCB Facilities. The owner and operator of a permitted Missouri PCB facility shall comply with this section. This section sets forth standards for a Missouri PCB facility permit which modify and add to the requirements of 40 CFR part 264 incorporated by reference in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2), which apply in this rule. For those subsections marked *Reserved* in which no modification or addition is indicated, the requirements of 10 CSR 25-7.264 and those 40 CFR parts incorporated by reference in 10 CSR 25-7.264(1) apply.

(I) Use and Management of Containers. This subsection sets forth standards which modify or add to those requirements in 40 CFR Part 264 Subpart I incorporated in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2)(I).

1. The term container as used in this subsection *[shall mean]* means PCB article, PCB container, or both.

2. The storage area shall meet the requirements in 40 CFR 761.65(b).

3. The temporary storage exemptions in 40 CFR 761.65(c)(1) are not allowed for permitted PCB facilities.

(O) PCB Incinerators. This subsection sets forth standards applicable to PCB incinerators which modify or add to those requirements in 40 CFR part 264 subpart O, incorporated by reference in 10 CSR 25-7.264(1).

1. The provisions of 40 CFR 264.340(b), as incorporated in 10 CSR 25-7.264(1), *[shall]* do not apply in this rule.

2. The requirements of 40 CFR 264.343(a)(1), as incorporated in 10 CSR 25-7.264(1), are modified to require an incinerator burning PCBs to achieve a destruction and removal efficiency (DRE) of ninety-nine and nine thousand nine hundred ninety-nine ten-thousandths percent (99.9999%).

3. The provisions of 40 CFR 264.343(a)(2) as incorporated in 10 CSR 25-7.264(1) *[shall]* do not apply in this rule.

4. Combustion criteria for PCB liquids and combustion gases entering a secondary chamber shall be either of the following:

A. Maintenance of the introduced liquids for a two- (2-) second dwell time at twelve hundred degrees Celsius, plus or minus one hundred degrees Celsius (1,200°C ± 100°C) and three percent (3%) excess oxygen in the stack gas; or

B. Maintenance of the introduced liquids for a one and one-half (1 1/2) second dwell time at sixteen hundred degrees Celsius, plus or minus one hundred degrees Celsius, (1,600°C ± 100°C) and two percent (2%) excess oxygen in the stack gas.

5. Combustion efficiency shall be at least ninety-nine and nine-tenths percent (99.9%), computed as follows: Combustion efficiency equals the concentration of carbon dioxide divided by the sum of the concentration of carbon dioxide and the concentration of carbon monoxide multiplied by one hundred

$$\left( \frac{C_{CO_2}}{C_{CO_2} + C_{CO}} \right) \times 100$$

where

C<sub>CO<sub>2</sub></sub> = the concentration of carbon dioxide; and

where

C<sub>CO</sub> = the concentration of carbon monoxide.

6. The provisions of 40 CFR 264.344(a)(2), as incorporated in

10 CSR 25-7.264(1) *[shall]* do not apply in this rule.

(10) PCB Facility Permitting. The requirements in 40 CFR part 270, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2) apply in this rule. This section sets forth standards for a Missouri PCB facility permit which modify and add to the requirements of 40 CFR part 270 incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2). This section does not apply to an owner or operator of a provisionally regulated PCB facility or a mobile treatment unit provided that the owner or operator maintains compliance with section (6) or (7) of this rule, respectively. For those subsections marked *Reserved* in which no modification or addition is indicated, the requirements of 10 CSR 25-7.270 and those 40 CFR parts incorporated by reference in 10 CSR 25-7.270(1) apply in this rule.

(B) Permit Application. This subsection sets forth standards which modify or add to the requirements in 40 CFR part 270 subpart B, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2)(B).

1. The requirements for qualifying for interim status are set forth in paragraph (10)(G)2. of this rule.

2. The waste analysis plan *[required]* specified by 40 CFR 270.14(b)(3), as incorporated in 10 CSR 25-7.270(1), shall be prepared in accordance with subsection (8)(B).

3. These requirements are in addition to the specific information requirements for incinerators in 40 CFR 270.19 as incorporated in 10 CSR 25-7.270(1).

A. 40 CFR 270.19(a), as incorporated in 10 CSR 25-7.270(1), *[shall]* does not apply in this rule.

B. In addition to the requirements of 40 CFR 270.19(c)(5) as incorporated in 10 CSR 25-7.270(1), methods and results of monitoring for the following parameters shall be submitted from any previously-conducted trial burns: oxygen (O<sub>2</sub>); carbon dioxide (CO<sub>2</sub>); oxides of nitrogen (NO<sub>x</sub>); hydrochloric acid (HCl); total chlorinated organic content (RCI); PCBs; and total particulate matter.

(G) Interim Status. This subsection sets forth standards which modify or add to those requirements in 40 CFR Part 270 Subpart G, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2)(G).

1. A PCB facility that meets the requirements of this subsection may continue to operate without a PCB permit if the facility remains in compliance with the interim status requirements in this subsection.

2. A PCB facility *[shall qualify]* qualifies for interim status if the facility—

A. Was in operation on August 13, 1986;

B. Filed a letter of intent with the department before December 12, 1986 to construct, alter, or operate the facility; and

C. Is in compliance with section (9) of this rule.

*AUTHORITY:* sections 260.370, [and] 260.395, [RSMo Supp. 2013.] and [section] 260.396, RSMo [2000] 2016. Original rule filed Aug. 14, 1986, effective Jan. 1, 1987. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not

required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov). Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 15—Hazardous Substance Environmental  
Remediation (Voluntary Cleanup Program)**

**PROPOSED AMENDMENT**

**10 CSR 25-15.010 Hazardous Substance Environmental Remediation (Voluntary Cleanup Program).** The commission is deleting section (2), amending sections (3), (4), (5), (6), (8), and (9), and renumbering as needed.

*PURPOSE:* This rule is being amended to eliminate portions of the rule that only restate information that can also be found in the state statutes that establish the program. Removing these duplicative requirements will eliminate the need for future updates to the rule text if statutory provisions change in the future.

[(2) *Definitions and Substitution of Terms.* This section supplements and modifies the definitions in 10 CSR 25-3. Where these definitions differ from those in 10 CSR 25-3, the modified definition is applicable only in this rule.

(A) *Additional Definitions.*

1. *Days* means calendar days unless otherwise specified.

2. *Environmental remedial cleanup* means a remedial action at an affected site undertaken and financed by a person, which remedial action is subject to oversight and approval by the department, and with respect to which remedial action the person agrees to pay the department's site-specific costs incurred in administration and oversight.

3. *Hazardous substance* means any hazardous substance specified in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. sections 9601(14)(A)–(F) and any hazardous waste as defined in section 260.360, RSMo or any rules promulgated under sections 260.350–260.480, RSMo.

4. *Nonresidential property* means any real property currently or previously used for industrial or commercial purposes, or both.

5. *Participation fees* means the two hundred dollar (\$200) application fee, the initial oversight costs deposit not to exceed five thousand dollars (\$5000) and all additional oversight cost reimbursements.

6. *Person* means any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity which is recognized by law as the subject of rights and duties.

7. *Phase I environmental site assessment* means a non-invasive physical assessment of the real property conducted in accordance with American Society for Testing and

Materials (ASTM) Standard E.1527 by a technical consultant who is familiar with the nature of the operations and activities that have occurred on the real property.

8. *Phase II environmental site assessment* means an invasive investigation by a technical consultant of those areas of concern identified during the Phase I environmental site assessment.

(B) *Modified definition applicable only to this rule.* *Remediation or remedial action* means all appropriate actions taken to clean up contaminated real property, including but not limited to removal, remedial action and response as these terms are defined by the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601.)]

[(3)](2) Intent to Participate.

[(A)] *Persons desiring to remediate real property with oversight by the department shall request an application form from the department.*]

[(B)](A) *[The application form shall include the information set forth in section 260.567.1, RSMo and any other existing and relevant information required by the department. The application form shall be filled out completely and returned to the department with the two hundred dollar (\$200) application fee.]* Application forms may be submitted at any time from the completion of a Phase I environmental site assessment up through the development, but not including the implementation, of a remedial action plan. *[Sites where remediation had been initiated or completed since August 28, 1994, will not be accepted into the voluntary cleanup program except in cases where limited action was taken to abate an emergency resulting from a release of hazardous substance.]*

[(C)](B) The department will review the form for completeness. The department will return any form deemed incomplete to the person for completion. Upon receipt of all requested information, the department will notify the person that the application form is complete and proceed according to section [(4)] (3) of this rule.

[(D)](C) The department will deny applications for sites *[which warrant clean-up under force of law or regulation under Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., as amended, or the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601 et seq., as amended, or the Missouri Hazardous Waste Management law] pursuant to section 260.567.2, RSMo, including sites that fall within any of the following categories:*

1. Conditions at a site constitute an imminent and substantial threat to public health or the environment;

2. Site inspection is completed and the site is being evaluated for listing on the **National Priorities List (NPL)**; or

3. Permitted or interim status Resource Conservation Recovery Act facilities; or].

4. *Sites which warrant enforcement action for clean-up under the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act, or the Missouri Hazardous Waste Management Law.]*

[(4)](3) *Environmental Remediation Oversight [Agreement].*

[(A)] *Upon approval of the application, the department shall enter into a site-specific environmental remediation oversight agreement with the person. This agreement shall sets forth the responsibilities of the person and the department.*

(B) *The person shall post an initial five thousand dollar (\$5000) deposit with the department or a lesser amount as determined by the department to cover the department's initial oversight costs. The deposit shall be a check or an irrevocable letter of credit issued by a Missouri bank.*

(C) *The person shall submit a copy of all reports concerning the results of any site assessments, investigations, sample collections and sample analyses, and any other existing and relevant information requested by the department. At a minimum, such reports and information shall consist of a Phase I environmental site assessment.]*

*[1.](A)* All reports, including other information requested by the department pursuant to *[subsection (4)(C) of this rule]* **section 260.567.3, RSMo**, shall be submitted within ninety (90) days following receipt of notice from the department that these reports are required. An extension may be granted at the department's discretion.

*[2.](B)* The department will review and comment on the reports within one hundred eighty (180) days. The one hundred eighty (180) days shall start upon receipt of all the reports or the deposit *[required in subsection (4)(B) of this rule]* pursuant to **section 260.567.3, RSMo**, whichever is later.

*[(D)](C)* The person shall notify the department's voluntary cleanup project manager by telephone, facsimile or letter no later than five (5) working days before the intended starting date of field work relating to site characterization or remediation.

*[(5)](4)* Remedial Action Plan.

(A) The person shall submit a remedial action plan for any contamination identified in the environmental site assessments within ninety (90) days following notice from the department that this information is required. An extension may be granted at the department's discretion. The remedial action plan shall satisfy the requirements of section 260.567.6., RSMo.

*[1.]* The department shall review the remedial action plan and determine if the plan is protective of human health and the environment. If revisions or modifications of the plan are necessary, the department will notify the person of the required revisions.

*[2. The final remedial action plan, including all the revisions or modifications, shall be approved by the department within ninety (90) days of receipt if the plan satisfies the requirements of section 260.567.6., RSMo.*

*(B) Implementation of the Approved Remedial Action Plan.*

*1. The approved remedial action plan shall be implemented by the person in accordance with the schedule contained in the work plan.*

*2. Quarterly progress reports shall be submitted to the department on forms provided by the department.]*

*[3.](B) Completion Report.* A final completion report signed by the person or an authorized agent, documenting that all required work has been satisfactorily completed shall be submitted to the department.

*[4. Departmental review and oversight of the environmental remediation shall be conducted in accordance with the provisions of the approved remedial action plan.]*

*[(6)](5)* Notification of Completion. The department will issue a letter *[to the person stating that no remedial action or no further remedial action need be taken at the site related to any contamination identified in the environmental assessments, provided that—]* of completion pursuant to **section 260.573, RSMo**.

*[(A) The person has complied with all provisions of this rule and sections 260.565—260.575, RSMo;*

*(B) Remedial actions, if any, have been taken in accordance with the approved remedial action plan; and*

*(C) All applicable participation fees have been remitted to the department.]*

*[(7)](6)* Termination of Environmental Remediation.

(A) Pursuant to section 260.567.11., RSMo, a person may terminate participation at any time by providing the department with written notification *[by certified mail]*. This termination does not affect

the person's environmental liability.

(B) Pursuant to section 260.569.3., RSMo, the department may terminate a person's participation in the environmental remediation oversight agreement for cause.

(C) Reimbursement of unspent oversight monies shall be handled in accordance with section 260.569.4., RSMo.

*[(8)](7)* Oversight Reimbursements. The person shall reimburse the department for site-specific administration and oversight costs in accordance with section 260.569.1, RSMo and this rule.

(A) A complete accounting of the costs incurred by the department will be billed to the person by certified mail at the following rates:

1. Personnel. The project manager's and geology and laboratory field personnel's hourly rates multiplied by a fixed factor of three and one-half (3 1/2) will be the basis for time accounting billing. This fixed factor is composed of direct labor costs; fringe benefits, calculated at a rate developed by the department, indirect costs calculated at a rate approved by the United States *[Department of the Interior]* **Environmental Protection Agency**; and direct overhead, including, but not limited to, the cost of clerical support and supervisory engineering review and Hazardous Waste Program administrative and management support;

2. Expenses. The direct expenses incurred during administration and oversight and any analytical costs associated with sampling; plus indirect costs calculated at the approved United States *[Department of the Interior]* **Environmental Protection Agency** rates; and

3. Monitoring fee. For sites *[which]* that require engineering and/or institutional controls (e.g., capping, deed restrictions), the person shall submit a fee to cover the department's long-term monitoring costs. The department's voluntary cleanup project manager shall establish a site-specific monitoring fee, ranging from five thousand dollars to fifteen thousand dollars (\$5,000-\$15,000). The amount of the monitoring fee shall be dependent upon the complexity of the site and the type of engineering and/or institutional controls.

(B) The person shall reimburse the department as follows:

*[1. Initial department expenses shall be reimbursed from the two hundred dollar (\$200) fee accompanying the application form.]*

*[2.]1.* After the two hundred dollar (\$200) application fee has been expended pursuant to **section 260.569.1, RSMo**, reimbursement shall be made from the deposit *[required in subsection (4)(B) of this rule]* pursuant to **section 260.567.3, RSMo**.

*[3.]2.* The department shall bill the person for any further expenses. The person shall reimburse the department within sixty (60) days following notice from the department that reimbursement is due. Failure to submit timely reimbursement may be grounds for termination of the environmental remediation oversight agreement.

(C) The person may appeal *[to the commission any charge within thirty (30) days of receipt of the bill in accordance with procedures outlined in section (9) of this rule]* pursuant to **section 260.569.1, RSMo**. Upon appeal to the commission, the disputed amount shall be placed in escrow pending resolution of the appeal.

*[(9)](8)* Appeals.

*[(A) The person may appeal to the commission any departmental action under sections 260.565—260.575, RSMo or this rule.*

*1. Appeals shall be filed with the staff director to the commission by certified mail within thirty (30) days of the disputed department action.*

*2. Appeals shall be in writing and shall specify the grounds for the appeal.]*

*[(B)]* Appeal hearings will be conducted by the commission in accordance with section 260.400, RSMo.

*AUTHORITY: sections 260.370, 260.567, 260.569, 260.571, and*

260.573, RSMo [2000] 2016. Original rule filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Rescinded: Filed June 12, 2018.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov). Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 16—Universal Waste

### PROPOSED AMENDMENT

**10 CSR 25-16.273 Standards for Universal Waste Management.** The commission proposes to amend sections (1) and (2) of the rule.

**PURPOSE:** All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR part 273, July 1, 2013 as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) [shall apply] **applies** in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent [shall] **rules** control.

(2) Small and large quantity handlers of universal waste, universal waste transporters, universal waste collection programs, and owners/operators of a universal waste destination facility shall comply with the requirements noted in this section in addition to requirements set forth in 40 CFR part 273 incorporated in this rule. (Comment: This section has been organized such that Missouri addi-

tions or changes to a particular federal subpart are noted in the corresponding subsection of this section. For example, the requirements to be added to 40 CFR part 273 subpart A are found in subsection (2)(A) of this rule.)

(B) Standards for Small Quantity Handlers of Universal Wastes. In addition to the requirements in 40 CFR part 273 subpart B, the following regulations also apply except that additional state specific requirements do not apply to batteries as described in 40 CFR 273.2, as incorporated in this rule:

1. In addition to the requirements of 40 CFR 273.11, a small quantity handler of universal waste is prohibited from accepting universal waste pesticides from other universal waste pesticide handlers unless the receiving small quantity handler operates a universal waste pesticide collection program as defined in paragraph (2)(A)9. of this rule;

2. The phrase "or received from another handler" in 40 CFR 273.15(a) in regards to universal waste pesticides is not incorporated in this rule because in Missouri small quantity handlers of universal waste pesticides are prohibited from accepting universal waste pesticides from another handler. *If a small quantity handler of universal waste pesticides operates a universal waste pesticide collection program as defined in section (2) of this rule, the handler shall comply with the accumulation time limits specified in the Department of Natural Resources' Standard Procedures for Pesticide Collection Programs in Missouri without a universal waste pesticide collection program;*

3. In 40 CFR 273.18(a), with respect to universal waste pesticides, remove the phrase "another universal waste handler" and replace it with "[a Missouri-certified resource recovery facility,] a universal waste pesticide collection program";

4. Subsections 40 CFR 273.18(d) through (g) are not incorporated in this rule in regards to universal waste pesticides. In lieu of these subsections, the following requirements apply. *If a) to the originating handler if a shipment of universal waste pesticides is rejected by the [Missouri-certified resource recovery facility or] destination facility[,];* *[t/*The originating handler must either—

A. Receive the waste back when notified that the shipment has been rejected; or

B. Send the pesticides to another Missouri-certified resource recovery facility or to a destination facility which agrees to take the waste;

5. *(Reserved)*

6. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 273.20, as incorporated in this rule. The state may not assume authority from the Environmental Protection Agency (EPA) to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies.

(C) Standards for Large Quantity Handlers of Universal Wastes. In addition to the requirements in 40 CFR part 273 subpart C, the following regulations also apply:

1. In addition to the requirements of 40 CFR 273.31, a large quantity handler of universal waste is prohibited from accepting universal waste pesticides from other universal waste pesticide handlers unless the receiving large quantity handler operates a universal waste pesticide collection program as defined in paragraph (2)(A)9. of this rule;

2. A large quantity handler of universal waste who manages recalled universal waste pesticides as described in 40 CFR 273.3(a)(1) as modified by 10 CSR 25-16.273(2)(A)3. and who has sent notification to EPA as [required] **established** by 40 CFR part 165 is not required to notify EPA for those recalled universal waste pesticides under this section;

3. In addition to the requirements in 40 CFR 273.33, a large

quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or components of universal waste to the environment, as follows:

A. Ensure that a mercury clean-up system is readily available to immediately transfer any mercury-contaminated residue resulting from breakage, spills, or leaks into a container that meets the requirements of 40 CFR 262.34; and

B. Ensure that the area in which containers are stored is ventilated;

4. In addition to the requirements in 40 CFR 273.33, a large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or components of universal waste to the environment, as follows:

A. Ensure that a mercury clean-up system is readily available to immediately transfer any mercury-contaminated residue resulting from breakage, spills, or leaks into a container that meets the requirements of 40 CFR 262.34;

B. Ensure that the area in which containers are stored is ventilated; and

C. Ensure that employees handling universal waste lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of spillage or released material into appropriate containers;

5. In 40 CFR 273.35(a) and (b), the phrase “or received from another handler” is not incorporated in this rule in regards to universal waste pesticides because in Missouri large quantity handlers of universal waste pesticides are prohibited from accepting universal waste pesticides from another handler/. *If a large quantity handler of universal waste pesticides operates a universal waste pesticide collection program as defined in section (2) of this rule, the handler shall comply with the accumulation time limits specified in the Department of Natural Resources’ Standard Procedures for Pesticide Collection Programs in Missouri] without a universal waste pesticide collection program;*

6. In 40 CFR 273.35(c)(1) through (c)(6), the phrases “or is received” and “or was received” are not incorporated in this rule in regards to universal waste pesticides because in Missouri large quantity handlers of universal waste pesticides are prohibited from accepting universal waste pesticides from another handler/. *If a large quantity handler of universal waste pesticides operates a universal waste pesticide collection program as defined in section (2) of this rule, the handler shall comply with the requirements for marking, labeling, and accumulation time limits that are specified in the Department of Natural Resources’ Standard Procedures for Pesticide Collection Programs in Missouri] without a universal waste pesticide collection program;*

7. In 40 CFR 273.38(a), with respect to pesticide, remove the phrase “another universal waste handler” and replace it with “[a Missouri-certified resource recovery facility,] a universal waste pesticide collection program”;

8. 40 CFR 273.38(d) through (f) are not incorporated in this rule with regards to universal waste pesticides. In lieu of these subsections, the following requirements apply/. *If] to the originating handler if a shipment of universal waste pesticides from a large quantity generator is rejected by the [Missouri-certified resource recovery facility or] destination facility, the [original] originating handler must either—*

A. Receive waste back when notified that the shipment has been rejected; or

B. Send the waste to another [Missouri-certified resource recovery facility or to a] destination facility which agrees to take the waste;

9. (Reserved);

10. 40 CFR 273.39(c)(1) is not incorporated in this rule in regards to universal waste pesticides because in Missouri large quantity handlers of universal waste pesticides are prohibited from receiving

shipments of universal waste pesticides from another handler/. *If a large quantity handler of universal waste pesticides operates a universal waste pesticide collection program as defined in section (2) of this rule, the handler shall comply with the record retention requirements that are specified in the Department of Natural Resources’ Standard Procedures for Pesticide Collection Programs in Missouri] without a universal waste pesticide collection program;*

11. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 273.40, as incorporated in this rule. The state may not assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies.

(D) Standards for Universal Waste Transporters.

1. In addition to the requirements set forth in 40 CFR part 273, subpart D, universal waste transporters shall—

A. Comply with all provisions of 10 CSR 25-6.263 if hazardous waste, as defined at 10 CSR 25-4.261 and not managed under the provisions of this rule, is transported in the state of Missouri;

B. Comply with the provisions of 10 CSR 25-6.263(2)(C) following a discharge of universal waste.

2. In addition to the prohibitions in 40 CFR 273.51(a) and (b), a transporter of universal waste pesticides is prohibited from delivering this waste to another universal waste handler except by delivery back to the original handler upon rejection of shipment by the [Missouri-certified resource recovery facility or] destination facility.

3. In 40 CFR 273.51(a) add the phrase “into the environment” after the phrase “prohibited from disposing of universal waste.”

(E) Standards for Destination Facilities. In addition to the requirements in 40 CFR part 273 subpart E, the following regulations also apply:

1. A universal waste destination facility that is also a permitted or interim status hazardous waste storage, treatment, or disposal facility must manage all universal wastes in an area which is separate from the permitted area or the waste loses its identity as universal waste and must be managed in compliance with the facility’s permit or interim status[;].

[2. A universal waste destination facility may be a Missouri-certified resource recovery facility if operating in compliance with the requirements for the universal waste in question and the standards of an R2 resource recovery facility as described in 10 CSR 25-9.020(3)(A)3.]

(F) (Reserved)

(G) In addition to the requirements in 40 CFR 273 subpart G, any person seeking to add a hazardous waste or a category of hazardous waste to this rule shall[—

1. C]comply with those provisions of section 536.041, RSMo, that describe a petition process to adopt, amend, or repeal any rule.

*AUTHORITY: section 260.370, RSMo [Supp. 2013] 2016. Original rule filed June 1, 1998, effective Jan. 30, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 2018.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission*

will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. I be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov). Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 60—Safe Drinking Water Commission**  
**Chapter 3—Permits**

**PROPOSED AMENDMENT**

**10 CSR 60-3.010 Construction Authorization, Final Approval of Construction, Owner-Supervised Program, and Permit to Dispense Water.** The department is amending section (1), removing language from (1)(A)3. and 4., amending (1)(B) and (C), amending (2)(B), removing language from (2)(B)1. and 2., incorporating a document by reference in (2)(B)2., and removing (2)(B)2.A., B., and C., amending (3)(A)2., (3)(A)3. and (3)(B), and creating section (4).

*PURPOSE:* The amendment provides a construction authorization exemption for public water systems for certain routine maintenance and repair; incorporates a document by reference; and clarifies the timeframe for a subdivision to apply for a permit to dispense.

*PUBLISHER'S NOTE:* The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Community Water System and Subdivision Requirements.

(A) Written Construction Authorization. A supplier of water [which operates a community water system] must obtain written authorization from the department prior to construction, alteration, or extension of any community water system or a water system serving a subdivision, unless the project will be constructed under the provisions of 10 CSR 60-10.010(2)(C)2., and, for community water systems commencing operation after October 1, 1999, must comply with the requirements of 10 CSR 60-3.020 and 10 CSR 60-3.030] or the project is exempt as specified in 10 CSR 60-3.010(4).

1. Two (2) copies of predesign studies pertaining to the project must be submitted to the department before plans and specifications for new water systems or for significant changes to existing water systems are reviewed for approval.

2. Construction authorization shall be requested by submitting written application and two (2) copies of the plans and specifications, as outlined in 10 CSR 60-10.010(2), for the proposed project to the department for review and approval.

3. Preparation of engineering reports, plans, and specifications [for community water systems] and inspection of construction for the purpose of assuring compliance with drawings and specifications must be done by an engineer as defined by 10 CSR 60-2.015(2)(E)2.

4. A construction authorization shall be valid for a period of two (2) years from the date of authorization **provided construction commences within the two (2) year timeframe.** [If construction is not commenced within two (2) years from the date of authorization, a new construction authorization must be obtained from the department.]

(B) Final Construction Approval. Final construction approval must be obtained from the department for all projects for which [approval is required] **construction authorization was issued**, before that project is placed into service. A supplier of water which operates a community water system need not obtain construction approval for projects constructed under the provisions of 10 CSR 60-10.010(2)(C)2.(B).

(C) Supervised Construction Program. A supplier of water which operates a community water system may establish a supervised construction program as specified in 10 CSR 60-10.010(2)(C)2.(B).

(2) Noncommunity Water System Requirements.

(B) Construction Authorization. Each noncommunity supplier of water must notify the department, in advance, of the intent to construct a new or expand an existing water system **unless the project is exempt as specified in 10 CSR 60-3.010(4).**

1. Noncommunity water systems [utilizing surface or ground water under the direct influence of surface water and non-transient noncommunity water systems] must obtain written authorization from the department prior to construction, alteration, or extension of the system [and must comply with 10 CSR 60-3.020 and 10 CSR 60-3.030].

2. [Transient n]Noncommunity water systems utilizing ground-water[-] shall be constructed in accordance with the department's "Standards for Non-Community Public Water Supplies, 1982," document published by the Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176, dated 1982 which is hereby incorporated by reference without any later amendments or additions.

[A. May be required, at the discretion of the department, to submit plans and specifications for approval;

B. Shall be constructed in accordance with the department's "Standards for Non-Community Public Water Supplies, 1982"; and

C. Must file with the department, within sixty (60) days of completion, a record of construction for all new or modified wells on forms provided by the department.]

(3) Permits to Dispense Water.

(A) Applicability.

1. A water supply meeting all the following conditions is not considered a public water system and as such, is not required to have a permit to dispense if that water supply:

A. Consists only of distribution and storage facilities;

B. Obtains all of its water from, but is not owned or operated by a public water system to which the regulations apply;

C. Does not sell water to any person; and

D. Is not a carrier which conveys passengers in interstate commerce.

2. Water systems serving subdivisions [as defined in 10 CSR 60-2.015(2)(S)8.] are public water systems **unless each lot or tract is supplied by a private well with no interconnections to a distribution system** and must have a permit to dispense water **when serving the thresholds established for community and noncommunity public water systems.**

3. Community and noncommunity water systems except as exempted in paragraph (3)(A)1. and 2. of this rule must have a permit to dispense water.

(B) Modification or Revocation of a Permit to Dispense. The department may modify or revoke a permit to dispense water, subject to the appeal provisions of section 640.130/115.5/., RSMo, upon a finding that any of the following have occurred:

(2) Test holes drilled to expand quarrying and surface mining operations.

(A) Test holes completely destroyed within one (1) year of the advance of the mine or quarry shall have a ten foot (10') surface grout plug and are exempt from plugging registration requirements.

(B) Test holes that are not destroyed within one (1) year of the advance of the mine or quarry are subject to plugging requirements pursuant to 10 CSR 23-6.050(1).

(C) Test holes that penetrate the quarry or mine floor which are not completely destroyed by the quarry or mine operation shall be plugged with grout from total depth to the bottom of the quarry or mine and are subject to plugging registration requirements.

(3) Clay mining operations. Test holes that do not penetrate beneath an impermeable fire clay deposit shall have a ten foot (10') surface grout plug and are exempt from plugging registration requirements.

(4) Unconsolidated material test holes less than one hundred feet (<100') deep.

(A) Test holes less than twenty feet (<20') in depth may be plugged using clean fill or uncontaminated native material and are exempt from plugging registration requirements.

(B) One (1) registration report and fee is required per site for test holes that are twenty feet (20') in depth or greater. All test holes plugged may be reported on one (1) form.

(C) Test holes where no ground water is encountered, may be plugged using clean fill or uncontaminated native material.

(D) Test holes may not be used for monitoring.

*AUTHORITY:* sections 256.606, 256.614, 256.615, and 256.626, RSMo [1994] 2016. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed July 13, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 1, 1995, effective June 30, 1996. Amended: Filed June 27, 2018.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with Department of Natural Resources' Geological Survey Program attention to Amber Steele at PO Box 250, III Fairgrounds Rd., Rolla, MO 65402 or via email to amber.steele@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on September 14, 2018 at 5:00 p.m. A public hearing is scheduled for 10 a.m., September 7, 2018, Mozarkite Conference Room, Missouri Geological Survey, III Fairgrounds Road, Rolla, MO 65401.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 23—Division of Geology and Land Survey  
Chapter 6—Test Hole Construction and Plugging Code**

**PROPOSED RESCISSION**

**10 CSR 23-6.060 Confidentiality of Registration Report Form.** This rule set standards to ensure that registration report forms are held confidential for at least ten years as required in section 256.615, RSMo.

*PURPOSE:* This rule is being rescinded and substantive information

is being incorporated into a single new proposed rule 10 CSR 23-2.020 Certification and Registration.

*AUTHORITY:* sections 256.606, 256.614, 256.615 and 256.626, RSMo Supp. 1991. Original rule filed Aug. 17, 1993, effective March 10, 1994. Rescinded: Filed June 27, 2018.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* The proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with Department of Natural Resources' Geological Survey Program attention to Amber Steele at PO Box 250, III Fairgrounds Rd., Rolla, MO 65402 or via email to amber.steele@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on September 14, 2018 at 5:00 p.m. A public hearing is scheduled for 10 a.m., September 7, 2018, Mozarkite Conference Room, Missouri Geological Survey, III Fairgrounds Road, Rolla, MO 65401.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 26—Petroleum and Hazardous Substance  
Storage Tanks  
Chapter 2—Underground Storage Tanks—Technical  
Regulations**

**PROPOSED AMENDMENT**

**10 CSR 26-2.080 [Risk-Based Target Levels] No Further Action.** The department is deleting sections (2) and sections (4) through (8), amending the title, purpose statement, and section (3) of the rule, and renumbering as needed.

*PURPOSE:* This rule is being amended to eliminate portions of the rule that are outdated and duplicative of other regulatory and statutory requirements. Removing the outdated portions of the rule will eliminate confusion about the applicability of these requirements and support the department's efforts to get rid of unnecessary and outdated rule language.

*PURPOSE:* This rule [sets clean-up levels for underground storage tank corrective actions and for site assessment, site characterization, and workplan development, which are all stages in developing clean-up levels. The rule also sets deed notice language to assure that the site is not used in a manner which would pose unacceptable risk or exposure. The rule requires that sites be ranked and that the ranking be used to allocate staff and funds.] describes the conditions under which a "No Further Action" status may be assigned to sites that have had a release from an underground storage tank.

[(2) Upon being so directed by the department, the UST remediator shall conduct a preliminary assessment of the site.

(A) The requirement for a preliminary assessment is waived if permanent closure is being conducted, or significant contamination is known to exist at the site, and the department has been notified of a release as required in 10 CSR 24-3.010(1).

(B) The preliminary assessment shall be conducted according to department guidance.]

[(3)](2) The department will evaluate the results of the [preliminary] risk assessment [to rank the site relative to other sites] for further characterization and/or corrective action.

(A) If the [preliminary] risk assessment shows, to the department's satisfaction, that maximum contamination levels are below the [action] default target levels outlined in the [department's underground storage tank closure guidance document,] document referenced at paragraph (3)(C)1. or (3)(C)2. of 10 CSR 26-2.078, and the site poses no risk to ecological receptors, the department will require no further action at the site.

(B) If the risk assessment shows, to the department's satisfaction, that all current and potential exposure pathways are incomplete (both on and off-site) or that no unacceptable risk from complete exposure pathways exists, and provided the conditions of sections 7.6, 8.4, or 9.5 of the document referenced at paragraph (3)(C)1. or (3)(C)2. of 10 CSR 26-2.078 are met, the department will require no further action at the site.

[(B)](C) If, in accordance with subsection [(3)](2)(A) or (2)(B) of this rule, the department determines that no further action is required at a site, and if subsequent information becomes available to indicate that contamination may be present at the site at levels which may threaten human health or the environment, the department may require additional investigation or site characterization and/or corrective action.

[(4) If full site characterization is required by the department, due to known contamination or in accordance with subsection (3)(B) of this rule, the UST remediator shall conduct the site characterization according to department guidance.

(5) The department will review the site characterization and rank the site relative to other sites based on site conditions as reflected in the site characterization and the potential risk to human health and/or the environment.

(A) The rank assigned to the site will be used to prioritize department actions including, but not limited to review of documents, pre-approval of costs and reimbursement of costs, in regard to the site.

(B) The department will not require further action at sites that the department deems not to pose a risk to human health and/or the environment, unless there is a change in known conditions at the site that would upgrade its priority, as determined by the department.

(6) Except as provided in section (8) of this rule, site clean-up objectives will be set as follows:

(A) Site clean-up objectives for the cleanup of petroleum released from underground storage tanks will be set by using the scoring matrix and the groundwater clean-up standards as outlined in the department's underground storage tank closure guidance document.

(B) (Reserved) (Note: The soil scoring matrix is a site-specific risk-based method which accounts for future land use and other considerations. Upon further development and review, this method or another which also meets statutory requirements, will be set forth in this section.)

(7) Site clean-up objectives and workplans are subject to approval by the department. Such approval must be granted in writing prior to implementation of the workplan.

(8) For all sites which are cleaned up to meet levels less stringent than (higher than) those set according to section (6) of this rule, the UST remediator shall file a document in the chain of title of the property. The document shall state that the contaminant levels were deemed acceptable by the department, based on the land use and other considerations, at the time of cleanup.

(A) If the UST remediator is a person other than the landowner, the UST remediator shall provide a copy of the document which is to be filed in the chain of title for the property, by certified mail to the landowner.

(B) The language of the document to be filed in the chain of title shall include the following:

NOTICE OF ACCEPTABLE LAND USE(S) OF UNDERGROUND STORAGE TANK SITE

Owner of Record: (Landowner's Name)

Site Description: (Site Name and Legal Description)

The above-described real property, owned by (Landowner's Name) and located in the County of (County Name) and State of Missouri, is the site of an underground storage tank which was (Removed/Closed) on (Date). The site cleanup was accepted as complete by the Missouri Department of Natural Resources on (Date), in accordance with the applicable requirements of Title 10, Division 25, Chapters 10 through 12 of the Code of State Regulations which were in effect at the time of cleanup. The contaminant levels remaining on the site are suitable for (Commercial/Light Industrial/Heavy Industrial/ Other Specified) use.

In witness whereof I hereunto set my hand this \_\_\_\_ day of \_\_\_, 19\_\_.

\_\_\_\_\_  
(Office)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

(C) No person may substantially change the manner in which a site with a document filed in the chain of title under this section is used without the prior written approval of the director or the director's designee.

1. Requests for approval of change in use of real property must be submitted in writing to the director's office no less than sixty (60) days prior to the planned change in use of real property. In the event the director does not respond within sixty (60) days after the request is received, the request will be considered to be approved as submitted.

2. The director will evaluate the request to determine whether the change in use of real property is likely to result in increased exposure of persons or the environment or spread of contamination.

3. If the change in use of real property is not likely to result in increased exposure of persons or the environment or spread of contamination, the director shall provide written approval.

(D) When the director finds that a site which has had a document filed in the chain of title under this section has been further cleaned up to meet or exceed (lower levels than) the standards described in section (6) of this rule, the director shall direct the UST remediator to file a second document in the chain of title. The document shall include the language in subsection (8)(B) of this rule, and shall describe the land uses for which the new contaminant levels are suitable.]

AUTHORITY: [section 319.111, RSMo 2000, and] sections 319.109, 319.111, and 319.137, RSMo [Supp. 2010] 2016. This

rule originally filed as 10 CSR 20-10.068. Original rule filed Jan. 2, 1996, effective Aug. 30, 1996. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Moved and amended: Filed April 15, 2011, effective Dec. 30, 2011. Amended: Filed June 29, 2018.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to [tim.eiken@dnr.mo.gov](mailto:tim.eiken@dnr.mo.gov). Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 50—Oil and Gas Council**  
**Chapter 1—[Organization, Purpose,] General Procedures and Definitions**

**PROPOSED AMENDMENT**

**10 CSR 50-1.020 General Procedures.** The council is amending the chapter title, sections (1), (2), (5), and (7), deleting sections (3) and (4), and renumbering as needed.

**PURPOSE:** This amendment removes duplication with sections 259.070, 259.140, 259.190, and 259.200, RSMo, improves readability, and removes unnecessary language pursuant to Executive Order 17-03 and the Red Tape Reduction Initiative.

(1) All rules promulgated [shall be] apply statewide [in application] unless otherwise specifically excepted by a written order of the council.

(2) [No order or amendment, except in an emergency, shall be made by the council without a public hearing upon at least ten (10) days' notice. The public hearing shall be held at a time and place as may be prescribed by the council and any interested person shall be entitled to be heard.] The notice requirements in [this regulation] section 259.140, RSMo, apply to each hearing arising under Chapter 259, RSMo, and implementing regulations heard by the council or any agent appointed by the council.

[ (A) Notice of the hearing shall be published by the council in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. If the notice is applicable throughout the state, then it shall be published in a newspaper of general circulation which is published in Jefferson City.]

[(B)](A) A copy of the notice of the hearing [shall] will be mailed by the council to each person who has filed for the purpose of receiving notice. The notice [shall] will be mailed not less than ten (10) business days prior to the hearing date.

[(C)](B) [In addition to notice required in subsection (2)(A), t/The council also [shall] will provide notice to any person whose property interests may be affected by the outcome of the hearing.

[(3) When the council determines an emergency requiring immediate action exists, the council is authorized to issue an emergency order without notice of hearing, which shall be effective when issued. No emergency order shall remain effective for more than fifteen (15) calendar days.

(4) The department or its authorized representatives shall have the authority to enter property, with the consent of the owner or operator, to conduct investigations or inspections as are consistent with the intent of Chapter 259, RSMo.]

[(5)](3) The council, after a hearing as provided by law, may order an operation to cease or wells to be plugged upon a finding that any provisions of the laws, rules, or conditions of the council or state geologist have been violated or that any fraud, deceit, or misrepresentation was made to obtain the approval of a permit. Appeals of any decision of the council may be made as provided by law.

[(6)](4) Information submitted pursuant to Chapter 259, RSMo, and implementing regulations shall use Missouri nomenclature.

[(7)](5) Confidentiality. Information gathered pursuant to Chapter 259, RSMo, and implementing regulations is public record pursuant to the Missouri Sunshine law, Chapter 610, RSMo. Confidentiality may be granted upon request, in accordance with section 640.155.1, RSMo. Cancelled permits are not considered confidential.

(A) If a written request for confidentiality is made to the state geologist within one hundred twenty (120) days of the spud date or the date of commencement of recompletion of the well, all information, samples, or cores filed [as required in] per 10 CSR 50-2.050 [shall] will be held in confidential custody for an initial period of one (1) year from the written request.

(B) All rights to confidentiality shall be lost if the filings are not timely, as provided in 10 CSR 50-2.050, or if the request for confidentiality is not timely, as provided in subsection [(7)](5)(A).

(C) Samples, cores, or information may be released before the expiration of the one- (1-) year period only upon written approval of the operator.

(D) If a request for an extension is made at least thirty (30) days before the expiration of the initial one- (1-) year period, the period of confidentiality may be extended for one (1) additional year.

**AUTHORITY:** sections 259.070, [and] 259.140, 259.190, and 259.200, [RSMo Supp. 2015, and sections 259.140 and 259.200,] RSMo [2000] 2016. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. For intervening history, please consult the Code of State Regulations. Amended: Filed June 27, 2018.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with Department of Natural Resources' Geological Survey Program attention to Kimberly Ward at PO Box 250, III Fairgrounds Rd., Rolla, MO 65402 or via email to [kimberly.ward@dnr.mo.gov](mailto:kimberly.ward@dnr.mo.gov). To be considered, comments must be received by the close of the public comment period on September 13, 2018 at

# **Public Hearing on Proposed Rules**

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## **Missouri Hazardous Waste Management Commission Sept. 13, 2018**

## **Summary of proposed rulemaking**

- Background - Why the change?
- Proposed Amendments - What are the changes?
- A total of nineteen proposed rules – 17 amendments and 2 proposed rescissions

## Background - Why the change?

- Red Tape Reduction -
  - Required the Department to identify rules that are outdated, burdensome, duplicative or no longer necessary
  - Intended to reduce the regulatory burden without sacrificing environmental protection
  - Focused on unnecessary restrictive words

## Red Tape Reduction

- Rules most affected include:
  - Identification of hazardous waste (10 CSR 25-4.261)
  - Hazardous waste generators (10 CSR 25-5.262)
  - Resource Recovery (10 CSR 25-9.020)
  - Registry of Abandoned or Uncontrolled Hazardous Waste Disposal Sites (10 CSR 25-10.010)

## Summary of significant changes

- Rescission of resource recovery and adoption of federal Definition of Solid Waste rule
- Rescission of state Registry rule
- Elimination of Missouri options for hazardous waste generators

## Proposed Amendments

- Published in July 16, 2018 Missouri Register (43 MoReg pp. 1759-1802)
- Comment period ends on September 20, 2018

## What are the changes?

- 17 proposed amendments
- 2 proposed rescissions

## 17 proposed amendments

- 10 CSR 25-2.010, 2.020, 3.260, 4.261, 5.262, 6.263, 7.264, 7.265, 7.266, 7.270, 8.124, 11.279, 12.010, 13.010, 16.273, and 10 CSR 26-2.080
- Federal Definition of Solid Waste rule – 2008
- Includes amendments published in 2015 and updated rule published in May 2018

## 2 Proposed Rescissions

- 10 CSR 25-9.020, Hazardous Waste Resource Recovery Processes
- 10 CSR 25-10.010, Registry of Abandoned or Uncontrolled Hazardous Waste Disposal Sites

## 10 CSR 2.010 – Voting Procedures (p. 1759)

- Minor changes to eliminate unnecessary rule language



## 10 CSR 25-2.020 – Hazardous Waste Management Appeals and Requests for Hearings (p. 1759)

- Duplicates statutory language and no longer necessary
- Rescinding eliminates need for future updates if statute changes



## 10 CSR 25-3.260 Definitions (p. 1759)

- Removal of unnecessary restrictive words
- Removal of definitions used for rescinded rules



## 10 CSR 25-4.261 – Identification of Hazardous Waste (p. 1761)

- Adoption of federal Definition of Solid Waste rule
- Includes 2008 rule and amendments published in 2015 and 2018
- Allows for recycling of hazardous secondary materials without requiring a resource recovery certificate or hazardous waste permit provided conditions are met
- Missouri rules will be equivalent to federal rules if adopted
- Fiscal note included



## 10 CSR 25-5.262 – Generators of Hazardous Waste (p. 1765)

- Removal of unnecessary restrictive words and unneeded or unused state-specific requirements
- Simplify regulations by eliminating Missouri options that are confusing and not widely used or understood
- Areas of emphasis include:
  - Container and tank labeling
  - Satellite accumulation

## Container Labeling

- Relates to information on hazardous waste containers in storage
- Amendment will align Missouri rules with federal rules for consistency and transparency
- Missouri option not widely used or understood

## Satellite Accumulation

- Relates to storage of hazardous waste at or near point of generation
- Amendment will align Missouri rules with federal rules for consistency and transparency
- Missouri option not widely used or understood

## 10 CSR 25-6.263 Transporters of Hazardous Waste

- Removal of unnecessary restrictive words
- Reorganization of rule text to simplify lists of requirements

## 10 CSR 25-7.264 and 7.265 – Permitted and Interim Status facilities

- Removal of unnecessary restrictive words and unneeded or unused state-specific requirements
- Remove references to resource recovery certification process and associated rule
- Delete railcar rule for interim status facilities – not needed

## 10 CSR 25-7.266

- Removal of unnecessary restrictive words and unneeded or unused state-specific requirements

## 10 CSR 25-7.270

- Removal of unnecessary restrictive words and unneeded or unused state-specific requirements

## 10 CSR 25-8.124 Public Participation

- Removal of outdated language on maintenance of mailing lists and appeal process
- Removal of unnecessary restrictive words
- Deletion of language related to resource recovery certification process

## 10 CSR 25-9.020 – Hazardous Waste Resource Recovery Facilities (p. 1787)

- Rescind resource recovery certificate program
- Adopt federal Definition of Solid Waste rule
- Hazardous secondary materials may be recycled without needing a certificate
- Generators will save money on oversight costs and tonnage fees
- Fiscal note included



## 10 CSR 25-10.010 Registry of Abandoned or Uncontrolled Hazardous Waste Disposal Sites (p. 1790)

- Most of rule duplicates statute
- Rule includes outdated and unnecessary language



## 10 CSR 25-11.279 Used Oil

- Removal of unnecessary restrictive words
- Removal of references to Missouri-specific waste codes for PCB used oil
- Elimination of duplicative Missouri requirement to use state version of used oil shipment record

## 10 CSR 25-12.010 Fees and Taxes

- Removal of unnecessary restrictive words
- Removal of outdated language for fees prior to amounts agreed to through stakeholder process

## 10 CSR 25-13.010 Polychlorinated Biphenyls (PCBs)

- Removal of unnecessary restrictive words
- Removal of Missouri-specific waste codes for PCB-related waste



## 10 CSR 25-15.010 Hazardous Substance Environmental Remediation (Voluntary Cleanup Program)

- Amended to eliminate portions of the rule that restates information in the state statutes that establish the program.
- Amended to eliminate language which contradicts the statute.



## 10 CSR 25-15.010(3)(B)

(B) The application form shall include the information set forth in section 260.567.1,RSMo and any other existing and relevant information required by the department. The application form shall be filled out completely and returned to the department with the two hundred dollar (\$200) application fee. Application forms may be submitted at any time from the completion of a Phase I environmental site assessment up through the development, but not including the implementation, of a remedial action plan. *Sites where remediation had been initiated or completed since August 28, 1994, will not be accepted into the voluntary cleanup program except in cases where limited action was taken to abate an emergency resulting from a release of hazardous substance.*

## 10 CSR 25-16.273 Universal Waste

- Removal of unnecessary restrictive words
- Incorporates by reference Missouri-specific procedure for pesticide collection programs

## 10 CSR 26-2.080 – Risk-Based Target Levels (p. 2263)

- Published in August 1st Missouri Register
- Removes outdated language and language incorporated elsewhere in underground storage tank regulations
- Additions to rule describe conditions under which sites can achieve ‘No Further Action’

## Rulemaking Schedule

- July 16, 2018 – eighteen rules published in *Missouri Register*
- August 1, 2018 – one rule published in Missouri Register
- September 13, 2018 - Public Hearing with HWMC
- September 20, 2018- End of Public Comment period
- December 20, 2018 – deadline for filing Orders of Rulemaking with Sec. Of State
- February 1, 2019 – Orders of Rulemaking published in *Missouri Register*
- March 30, 2019 - Rulemaking effective

# QUESTIONS ?

**Missouri Hazardous Waste Management Commission Meeting**

**September 13, 2018  
Agenda Item # 4**

**Red Tape Reduction – Regulation Review**

**Issue:**

On Jan. 10, 2017, Governor Greitens signed Executive Order 17-03. This Executive Order requires executive agencies to review every regulation under its jurisdiction in the Code of State Regulations, solicit input from the public, submit a report to the Governor's Office by May 31, 2018, and take action to rescind or amend those regulations the agency has identified as needing action.

**Information:**

Update to the Commission on the Program's progress on this issue.

**Recommended Action:**

Information only.

**Presented by:**

Tim Eiken - Rules Coordinator, Hazardous Waste Program

**Missouri Hazardous Waste Management Commission Meeting**

**September 13, 2018**

**Agenda Item # 5**

**Staff Director Report**

**Issue:**

Update to the Commission on items related to Program issues.

**Recommended Action:**

Information only.

**Presented by:**

John D. Jurgensmeyer, Staff Director, Hazardous Waste Program

**Missouri Hazardous Waste Management Commission Meeting**

**September 13, 2018**

**Agenda Item # 6**

**Commission Semiannual Report**

**Issue:**

Presentation of the January through June 2018, Commission Report.

**Recommended Action:**

Information Only.

**Presented by:**

Amy Poos – Public Information, Division of Environmental Quality

# Hazardous Waste Management Commission Report

January through June 2018



## Semi-Annual Report



**MISSOURI**  
DEPARTMENT OF  
NATURAL RESOURCES

## Hazardous Waste Management Commissioners

Elizabeth Aull, Chair  
James "Jamie" Frakes, Vice Chair  
Charles "Eddie" Adams  
Michael Foresman  
Mark E. Jordan

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

### For more information:

Missouri Department of Natural Resources

Hazardous Waste Program

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

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

Phone: 573-751-3176

Fax: 573-751-7869

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



Missouri Department of Natural Resources  
Hazardous Waste Program

**Table of Contents**

**Remediation ..... 4**  
Table - Sites in the Brownfields/Voluntary Cleanup Program ..... 4  
Brownfields/Voluntary Cleanup Program Certificates of Completion.. 6

**Permits ..... 12**  
Making a Difference ..... 12

**Federal Facilities ..... 15**  
Radioactive Transportation ..... 15

**Enforcement ..... 16**  
Regional Office Hazardous Waste Compliance Efforts..... 16  
Hazardous Waste Compliance and Enforcement Section..... 16  
Hazardous Waste Enforcement Unit ..... 16  
Permitted TSDF Inspectors..... 17  
Hazardous Waste Transporters..... 17  
Enforcement Efforts ..... 17  
Pesticide Collection Program Activities ..... 17  
Pesticide Collection Events..... 17

**Tanks..... 19**  
Petroleum Storage Tank Statistics..... 19  
Department Attends PACE of Mid-America..... 19  
Tanks Section Planning Workshop at MWCC Conference..... 19  
Table - Tanks Regulations, Closures and Cleanups Attachement..... 20

## Sites in the Brownfields/Voluntary Cleanup Program

Month	Active	Completed	Total
January 2018	233	871	1104
February 2018	231	874	1105
March 2018	230	875	1105
April 2018	232	877	1109
May 2018	235	879	1114
June 2018	234	881	1115

### New Sites Reviewed

#### JANUARY

Chemisphere, St. Louis  
 Mid-Am 3236 West, Joplin  
 Substation K, Kansas City  
 1927 Mid America, Joplin  
 Ashland on 3rd St., Kansas City  
 Tower Village Nursing Home, St. Louis  
 Mark Andy, Inc., Chesterfield  
 Westminster Place, St. Louis

#### FEBRUARY

UCM Nattinger-Bradshaw Hall, Warrensburg  
 T-REX Innovation Center, St. Louis  
 Steelcote Manufacturing (former), St. Louis

#### MARCH

Hueffmeier Trucking, Robertsville

#### APRIL

White Leaf Enterprises, Ellisville  
 West 14th and Wyandotte, Kansas City  
 NKC Medical, North Kansas City  
 Southside Plaza Shopping Center - Econ-O-Wash Lee's Summit  
 East Village Transit Center, Kansas City

#### MAY

Pruitt-Igoe Housing Project Parcel 1, St. Louis  
 Pruitt-Igoe Housing Project Parcel 2, St. Louis  
 Pruitt-Igoe Housing Project Parcel 3, St. Louis  
 Knob Noster City Hall, Knob Noster  
 Carter-Waters Corporation-West Pennway, Kansas City  
 Christy Plaza, St. Louis  
 Southview Golf Course (former), Belton

#### JUNE

None

### Sites Closed

#### JANUARY

None

#### FEBRUARY

Flance Center at Murphy Park, St. Louis

Explorer Pipeline-Owensville, Owensville

Sunset Ford Car Dealership (former), Sunset

#### MARCH

Deffenbaugh Industries, St. Joseph

#### APRIL

Burlington Northern Westyard-Former Paint Shop, Springfield

Sabreliner Corporation (former), St. Louis

#### MAY

Century Foundry, St. Louis

Solar Transport Casada Property, Brookeline

#### JUNE

Northtown Development Co.-Leo Eisenberg Site - Main Tract, North Kansas City

Northtown Development Co.-Leo Eisenberg Site - Tract D, North Kansas City

### Brownfields/Voluntary Cleanup Program Certificates of Completion

Brownfields are real property where the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant. Cleaning up and reinvesting in these properties protects the environment, reduces blight and takes development pressures off greenspaces and working lands. Through this program, private parties agree to clean up a contaminated site and are offered some protection from future state and federal enforcement action at the site in the form of a “no further action” letter or “certificate of completion” from the state. The Brownfields/Voluntary Cleanup Program issued 10 certificates of completion for various sites from January through June 2018. This brings the total number of certificates of completion issued to 885.

#### Flace Center at Murphy Park Issued Certificate of Completion

The Missouri Department of Natural Resources issued a certificate of completion for the Flance Center at Murphy Park site, 1908 O’Fallon St., St. Louis. As early as 1909, this site was developed as a residential community with several small retail shops. In 1952, St. Louis Housing Authority purchased the site. During the late 1950s, the St. Louis Housing Authority developed the site with a high-rise apartment complex as part of the George Vaughn Apartment Complex. In 2006, the housing authority demolished the building.



Recognized environmental conditions identified during the Phase I Site Assessment included a former heating oil underground storage tank located at the southwestern portion of the site and the possible existence of heavy metals, asbestos and other contaminants that can be present in urban fill.

Polynuclear aromatic hydrocarbons were the only contaminants found in the soil above the applicable levels. The participant’s contractor excavated and disposed the top layer of contaminated soil. The contractor subsequently installed an orange witness barrier over the parts of the site that would not be paved, and a two to three foot thick cap of clean soil was laid on top of that. A Soil Operation and Maintenance plan is placed in the property chain-of-title with a covenant, which limits the site to restricted residential use and ensures the cap is properly maintained. The department determined the site is safe for its intended use.

#### Explorer Pipeline-Owensville Issued Certificate of Completion

The department issued a certificate of completion for the Explorer Pipeline-Owensville site, near 1801 Hecker Road, Owensville. On April 10, 2015, an Explorer Pipeline employee discovered a release of virgin petroleum products from a pipeline in a rural area approximately 6.5 miles south of Owensville. Gasoline, diesel and jet fuel product are transported along this pipeline. A chemical analysis of groundwater samples detected benzene and naphthalene levels above the Missouri default target levels. Based on the initial site characterization activities, staff determined an additional investigation needed occur to determine the extent of impact in groundwater and evaluate the site under the Missouri Risk-Based Corrective Action process.

Site investigations revealed petroleum in groundwater at the site. Site characterization activities indicate that petroleum impact to soil and groundwater was below the Missouri Risk-Based Corrective Action guidance residential dermal contact standards. Explorer Pipeline’s consultant conducted a Tier 1 risk assessment which found no unacceptable risks to human health or the environment. The consultant also performed a groundwater plume stability analysis that indicated a stable or decreasing trend for plume stability. The department determined the site is safe for its intended use.

### Sunset Ford Car Dealership (former) Issued Certificate of Completion

The department issued a certificate of completion for the Sunset Ford Car Dealership (former) site, 11816 and 11860 Gravois Road, Sunset Hills. The 5.562 acre property is mostly paved parking with 28,000 square feet of commercial space in five separate buildings. Sunset Auto Company (later known as Sunset Ford), an automotive sales and service business, began operating on the property in 1912 and constructed the main building in 1928. Sunset Auto Company/Sunset Ford operated on the property until the early 1990s. Various businesses have operated on the property from the mid-1990s through the present including Fenton Auto Sales, a transportation company, auto detailing companies and retail companies. In January 2017, Midwest Regional Bank purchased the parcel with plans to demolish the buildings on the west side of the property and construct a branch location of the bank.



The only recognized environmental concerns identified for the property were a 2,000-gallon underground storage tank, a 500-gallon underground storage tank, and an underground lift. The 2,000-gallon underground storage tank was used by Sunset Ford to store gasoline and the department issued a No Further Action letter on Nov. 16, 1994. The dealership used the 500-gallon tank to store oil waste. Records indicate the dealership's consultant emptied the tank and filled it with slurry. Underground storage tanks used for heating oil or waste oil are not regulated and therefore are not issued a No Further Action letter. During excavation of the 500-gallon underground storage tank, the consultant discovered the tank to have a capacity of 1,250 gallons and filled it with oil sludge and water. During excavation, rain water entered the excavation pit and mixed with the sludge. The consultant cleaned the tank and the pit and pumped out and disposed of 605 gallons of the sludge/water mixture. The dealership's consultant removed and transported the tank to a recycling facility.

The consultant excavated and transported 183.23 tons of impacted soil. The consultant then collected soil samples from the excavation pit floor and walls and sent for analysis. All contaminant concentrations were below default target levels except for lead and arsenic. Further analysis showed lead and arsenic concentrations were well below the Missouri Risk-Based Corrective Action guidance Tier 1 risk-based target levels.

The department determined the remaining contamination was below applicable risk levels. Therefore, no activity or use restrictions are required for the property. The department determined the site is safe for its intended use.

### Deffenbaugh Industries Issued Certificate of Completion

The department issued a certificate of completion for the Deffenbaugh Industries site, 5310 Saint Joseph Ave., St. Joseph. A previous tenant developed the eastern half of the 32-acre property in the late 1970s as a truck maintenance and storage area and Deffenbaugh Industries currently operates it. The facility consists of a main building for truck maintenance, body shop, truck wash, fuel-island, storage shed and an office building. The western half of the property is undeveloped with a steep hill.

In January 2004, Deffenbaugh employees discovered a hole in the buried distribution line. The initial investigation showed the line released an estimated 6,000 gallons of diesel and subsurface soil and groundwater had been impacted. By June 2004, Deffenbaugh's consultant had constructed 24 groundwater monitoring wells and installed a product recovery system. The product recovery system

operated until March 2008. To determine the stability of the contamination plume, the consultant conducted six groundwater sampling events from June 2008 to September 2015. Analytical results from groundwater samples show the plume had been contained to the property and the overall concentration of contaminants had substantially decreased.

In accordance with the Missouri Risk-Based Corrective Action guidance, the consultant evaluates current and future exposure pathways for diesel contaminants were compared by the consultant for the site and contaminant concentrations to applicable risk-based target levels. Because there are no structures within the impacted area, indoor inhalation of vapor from soil is incomplete. Additionally, contaminant concentrations in subsurface soil did not exceed residential risk-based target levels for Soil Type 1. As part of the evaluation for groundwater exposure pathway, the consultant documented that (a) contamination has been contained onsite and does not pose a risk to the nearest domestic use well a half mile away, (b) local municipal water supply provides potable water for the site, and (c) the St. Joseph City Ordinance (26-100) requires that all new subdivisions in the city connect to a public water system. Based on this weight of evidence, the current and future domestic use of groundwater exposure pathway is incomplete. Additionally, the consultant compared the concentrations of contaminants from the most recent groundwater sampling event to applicable risk-based target levels and determined the concentrations did not exceed those for residential use.



The department determined the remaining contamination did not exceed applicable risk levels for complete exposure pathways and no activity or use restrictions are required for the property. The department determined the site is safe for its intended use.

### **Burlington Northern Westyard-Former Paint Shop Issued Certificate of Completion**

The department issued a certificate of completion for the Burlington Northern Westyard-Former Paint Shop site, 1625 North Lexington, Springfield. Burlington Northern Railroad has operated at this site since 1909. Past site activities were railcar construction, engine building and other railroad industry activities. Currently, the site consists of a 40-track flat rail yard, a car shop utilized for the rebuilding of damaged freight cars, diesel shop, diesel storage tanks, diesel fueling facility, and an oil recovery ponds area. Environmental concerns at the rail yard included heavy metals, petroleum associated with a tie box area and oil-water separator, oil recovery ponds, and solvents in a paint shop.

Site investigation activities conducted by Burlington Northern's consultant identified areas of the former paint shop that were impacted by arsenic and lead, which included: in shallow soils on the north and west sides of the former paint shop foundation and material accumulated inside a row of concrete-lined drainage trenches embedded in the former foundation. Soil remedial activities included excavation and disposal of soils from these areas exceeding the Missouri Risk-Based Corrective Action guidance non-residential use standards. The department determined the site is safe for its intended use.

### **Sabreliner Corporation (former) Issued Certificate of Completion**

The department issued a certificate of completion for the Sabreliner Corporation (former) site, 6161 Aviation Drive, St. Louis. This site consists of a small portion of the Lambert St. Louis International Airport property. The city of St. Louis owns, who formerly leased the site to the Sabreliner Corporation, and is currently leasing the site to Boeing. Historically, the site operations included fueling, fuel storage and de-icing operations.

Sabreliner's Phase II Environmental Site Assessments indicated detections at the southern end of the site of benzene; ethylbenzene; naphthalene; 1,2,4-trimethylbenzene; 1,3,5-trimethylbenzene; 1,1-dichloroethylene; and vinyl chloride in groundwater at levels exceeding the Missouri Risk-Based Corrective Action default target levels. Sabreliner's consultant installed groundwater monitoring wells and conducted quarterly monitoring. Chemicals of concern fell below the default target levels during the monitoring events and the consultant determined them to be stable. The department determined the site is safe for its intended use as hangers for Boeing aircraft.

### Century Foundry Issued Certificate of Completion

The department issued a certificate of completion for the Century Foundry site, 3700 Forest Park Ave., St. Louis. Previous tenants used this site as a gray iron foundry and manufacturing operation for automotive parts, construction equipment and electrical equipment for 80 years. The existing buildings onsite will be demolished and it is anticipated the site will be redeveloped by the participant for future mixed use commercial property. Phase I and II reports indicate volatile organic compounds, total petroleum hydrocarbons-diesel range organics and oil range organics, and metals contamination.

Site investigation indicated heavy metals and polynuclear aromatic hydrocarbons in the soil and groundwater as well as the site buildings. Remedial actions included the following:

- Excavation and disposal of heavy metal and/or polynuclear aromatic hydrocarbons impacted soil and fill material.
- Removal and disposal of lead-impacted foundry sands from the foundry building.
- Abatement of asbestos containing material from the onsite structures.
- Management of building components containing heavy metal-based paint through the use of an operation and maintenance plan.
- Removal and disposal of universal waste materials from the structures.
- Removal of a heating oil underground storage tank from the south portion of the Byco Building.

The participant's consultant performed Tier 1 risk assessment that indicated no complete pathways. The department determined the site is safe for its intended use.



### Solar Transport Casada Property Issued Certificate of Completion

The department issued a certificate of completion for the Solar Transport-Casada Property site, 2804 N. Brookline Ave., Brookline. On Nov. 29, 2014, a Solar tanker hauling 7,204 gallons of gasoline and 801 gallons of ethanol overturned into a roadside ditch within the Missouri Department of Transportation right-of-way. The tanker released approximately 2,505 gallons of gasoline/ethanol onto the east shoulder of Highway MM. The released fuel pooled directly beneath the tanker and traveled 100 feet to the north and south of the point of release. Solar Transport reported the release to the department and the details of these abatement activities were provided in a report titled Hazard Abatement Report (January 2015).

Solar's consultant performed soil vapor sampling for the Casada property. Staff compared the results to the Tier 1 Soil Vapor risk-based target levels protective of residential indoor inhalation. The consultant detected no petroleum vapors in any of the soil-vapor samples. These results indicated there was no risk to human health on the Casada property from exposure to vapors from the residual petroleum impact remaining in the soil. The department determined the site is safe for its intended use.

### Northtown Development Co.-Leo Eisenberg Site - Main Tract Issued Certificate of Completion

The department issued a certificate of completion for the Northtown Development Co.-Leo Eisenberg Site - Main Tract site, 1226 E. 16th Ave., North Kansas City. When this site first enrolled in the Brownfields/Voluntary Cleanup Program in 1996, it was divided in two areas: a southern 10-acre tract used for storing and staging tractor trailers, and an undeveloped northern 20-acre tract. Miscellaneous fill material had been imported by previous tenants to the site over the years to raise its elevation. In response to a public complaint in 1989, EPA investigated several pools of unknown liquid at the site. EPA detected elevated levels of heavy metals. Northtown Development Company entered the site into the program to address the environmental concerns and prepare the site for development. The department issued a certificate of completion to the site in 2001, with a restrictive covenant limiting the site to non-residential land use, along with a restriction that the soil not be excavated in the central portion of the property without prior notice to the department.

The site re-enrolled in March 2017 to address the remaining contamination so the property could be approved for residential land use. The site is to be redeveloped for commercial and multi-family residential use.

Prior to the site's completion of the 2017 enrollment, the city sold off a portion of the property, known as Tract D. As Tract D has a separate owner, the department will issue a separate environmental covenant and certificate of completion.

Northtown's consultant found Polynuclear aromatic hydrocarbons to be above residential risk-based target levels in an area of the site planned for non-residential use. However, given their limited scope, these concentrations do not appear to be representative of the site. In addition, lead and arsenic levels in the groundwater were at concentrations above the default target levels; the domestic use of groundwater pathway has been determined by the department to be complete for the site. An environmental covenant was placed by the city in the property chain-of-title limiting the site to a restricted residential use, which allows for multi-family residential but not single-family, and prohibits the installation of drinking water wells on the property. The department determined the site is safe for its intended use.



### Northtown Development Co.-Leo Eisenberg Site - Tract D Issued Certificate of Completion

The department issued a certificate of completion for the Northtown Development Co.-Leo Eisenberg Site - Tract D site, 1226 E. 16th Ave., North Kansas City. When this site first enrolled in the Brownfields/Voluntary Cleanup Program in 1996, it was divided in two areas: a southern 10-acre tract that was used for storing and staging tractor trailers, and an undeveloped northern 20-acre tract. Miscellaneous fill material had been imported by previous tenants to the site over the years to raise its elevation. In response to a public complaint in 1989, EPA investigated several pools of unknown liquid at the site. EPA detected elevated levels of heavy metals. Northtown Development Company entered the site into the program to address the environmental concerns and prepare the site for development. The site was issued a certificate of completion in 2001, with a restrictive covenant limiting the site to non-residential land use, along with a restriction that the soil not be excavated in the central portion of the property without prior notice to the department.



The site re-enrolled in March 2017 to address the remaining contamination so the property could be approved for residential land use. The site is to be redeveloped for commercial and multi-family residential use.

Prior to the site's completion of the 2017 enrollment, the city sold off a portion of the property, known as Tract D. As Tract D has a separate owner, a separate environmental covenant and certificate of completion are being issued.

Northtown's consultant found the polynuclear aromatic hydrocarbons to be above residential risk-based target levels in an area of the site that is planned for non-residential use. However, given their limited scope, these concentrations do not appear to be representative of the site. In addition, lead and arsenic levels in the groundwater were at concentrations above the default target levels; the domestic use of groundwater pathway has been determined by the department to be complete for the site. An environmental covenant was placed by North Kansas City Destination Developers, LLC in the property chain-of-title limiting the site to a restricted residential use, which allows for multi-family residential but not single-family, and prohibits the installation of drinking water wells on the property. The department determined the site is safe for its intended use.

## Making a Difference

### Background

For most of the late 19th and early 20th centuries, Missouri led the world in lead production. Southeast Missouri was widely recognized as a center of lead mining, milling and smelting. The entire region, referred to as the Southeast Missouri Lead District, includes the Fredericktown area, Old Lead Belt and Viburnum Trend – also called the New Lead Belt. The Washington County Barite Sub-District within the Old Lead Belt covered over 250 square miles, with the remaining Southeast Missouri Lead District encompassing over 400 square miles within the eastern Ozark Mountains.

Lead has been mined in Southeast Missouri since before 1700. In 1864, the St. Joseph Lead Co., who later became St. Joe Minerals Corp., purchased land near the town of Bonne Terre. This area, known as the Old Lead Belt, was located mainly in St. Francois County, with small operations in Washington and Madison counties. Between 1864 and 1972, St. Joe Minerals Corp. operated numerous lead and zinc mines and mills in the Old Lead Belt, including the Herculaneum lead smelter.

Exploration for new lead and zinc deposits began in the early 1950s as the ore reserves in the Old Lead Belt depleted. St. Joe's Number 27 mine in Crawford County shipped the first ore from the new district, the Viburnum Trend, in mid-1960. During the next two decades, ten mines opened along the south-trending ore deposit, which occupies an approximate 40-mile stretch between the towns of Viburnum and Corridon, and included Crawford, Washington, Iron, Dent, Reynolds and Shannon counties.

The Viburnum Trend continues to produce lead, zinc, copper and silver. Today, all lead produced in Missouri, and approx. 80 percent of America's total lead production, comes from the Viburnum Trend. There are four active lead mines and one active smelter, all owned and operated by the Doe Run Co. The Buick Resource Recovery Facility, located in Boss, operated as a primary lead smelter from 1968 to 1987. Currently, the smelter operates as a secondary lead smelter, recycling lead-acid batteries and other lead-bearing hazardous and non-hazardous wastes to recover the lead. There are also inactive smelters in Glover and Herculaneum. Doe Run stopped smelter operations at the Glover smelter in 2003 and Herculaneum smelter in 2013.

### Investigations

In the late 1990s, the Missouri Department of Transportation conducted a study to determine if lead-mining wastes used in highway asphalt pavement posed a risk to persons living near those highways. The Department of Transportation sampling identified high lead contamination along local highways built both with and without lead-mining wastes in the asphalt. Due to the accessibility of the smelters, along with the many lead mills in the area, the roadways between the various mines, mills and smelters are heavily trafficked by haul trucks carrying lead ore concentrate. The Department of Transportation began to suspect other potential sources of lead along the highways, including transportation spill incidents.

In 2001, the Missouri Department of Natural Resources' Hazardous Waste Program discovered high lead concentrations along the haul routes in and around the Herculaneum lead smelter. Over the years, these roads became contaminated with lead ore dust blown out of trailers used to haul the lead ore concentrate. Due to the potential for high contamination levels along other haul routes, the department began investigating the haul routes within the Viburnum Trend. Staff found lead-contaminated soil in residential yards and along roadways throughout the Viburnum Trend, including sections of highways within Dent, Iron and Reynolds counties.

### Remedial Activities

In 2005, Doe Run entered into an Administrative Order on Consent with the U.S. Environmental Protection Agency, for a time-critical removal of lead-contaminated soil from residential yards located along the haul roads. Ultimately, the soil would be permanently disposed under a plan approved by the department and EPA. However, an immediate storage area was required. The department issued an emergency hazardous waste permit to Doe Run, allowing Doe Run to temporarily store approx. 20,000 tons of lead-contaminated soils at its Viburnum Mine/Mill Facility #28 until Doe Run put a permanent disposal plan in place. The Viburnum Mine/Mill Facility #28 was an abandoned lead and zinc mine with a large lead tailings pile, located on property owned and managed by Doe Run.

In 2006, EPA approved a Remedial Action Plan to manage the lead-contaminated soils removed from residential yards in Dent, Iron, Reynolds and Washington counties. This included lead-contaminated soils from the Middlebrook Railhead, temporarily stored at the Glover smelter, as well as lead-contaminated soils from the haul roads, city of Viburnum and residences near the Buick smelter. The RAP allowed Doe Run to transport the lead-contaminated soils, now classified as remediation waste, from the Glover storage area to the Viburnum Mine/Mill storage area. Doe Run treated the remediation waste and used it as cover material to cap the existing lead tailings pile. The RAP authorized placing up to 100,000 tons of treated remediation waste on the lead tailings pile.

Doe Run completed the time-critical removal activities. However, soils not meeting the time-critical action level, but exceeding the level considered harmful in residential soil, still needed to be addressed. In 2016, Doe Run voluntarily entered into another Administrative Order on Consent with EPA, for a non-time-critical removal of lead-contaminated soil from residential yards located along the haul roads. These removal activities are ongoing.

### Issue

Doe Run's EPA-issued RAP expired Sept. 12, 2016; however, federal regulations 40 CFR 270.205, allowed the existing RAP to continue in effect until a new RAP is issued or denied. In 2006, EPA authorized Missouri to issue and carry out RAPs. Because of this authorization, it fell to the department to issue a new RAP to replace the EPA-issued RAP. Doe Run requested additional tailings piles be added to the new RAP as disposal areas for treated remediation waste.

Around this same time, the city of Viburnum found the bio-solids in their wastewater treatment lagoons had accumulated to the point that they needed to be removed in order to continue operating the system efficiently. Sampling results showed the lagoon bio-solids contained high levels of lead and other mining-related metals. The cost of treating and disposing the bio-solids in a landfill would be significant. Doe Run requested the lagoon bio-solids be added to the new RAP. Mine tailings piles contained higher lead levels than the lagoon bio-solids and virtually no organic matter. In this current form, tailings piles would not easily support vegetation. By placing lagoon bio-solids and treated remediation waste on the tailings piles, Doe Run would add the organic matter and nutrients needed to promote vegetation growth and help prevent erosion. Doe Run would be able to effectively cover the tailings piles, which protects human health and the environment, while helping the city of Viburnum dispose of the bio-solids in a cost effective manner.

Due to a number of issues, the department realized it would not be able to issue the new RAP in a prompt enough timeframe to allow lagoon cleanout during warm weather. The department asked EPA to modify the 2006 RAP, to which EPA agreed. EPA's project manager scheduled to release the draft modified RAP for public comment on June 7, 2018. That same day, EPA's legal counsel realized the 2006 RAP was issued after Missouri was granted authority to issue RAPs and EPA no longer had authority to issue a modification. Upon realizing neither EPA nor the department could issue a new or modified RAP to allow

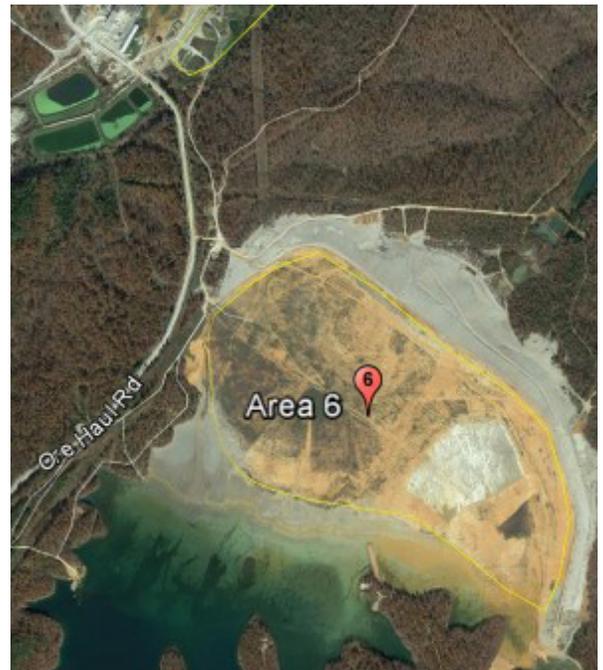
lagoon cleanout this season, the department contacted Doe Run who informed the department if a solution was not found by July 15, 2018, the city of Viburnum stood to lose a \$37,000 down payment to the contractor hired to remove the lagoon bio-solids. In anticipation of the new RAP, the city also took out a \$300,000 loan to clean out the lagoon and get back in compliance with their National Pollutant Discharge Elimination System permit.

### Solution

The department felt that failure to find a solution would create an undue financial burden on an already cash-strapped city of 693 people. The department, in coordination with their legal counsel, spent weeks looking for a solution. No regulatory mechanisms available, including an emergency permit, seemed to fit the situation or would be able to be issued in the very short time frame available. After further discussions among the Hazardous Waste Program staff, it was suggested that a beneficial use request through the department's Solid Waste Management Program might be a possible solution. The department's Hazardous Waste and Solid Waste programs began consulting on the viability of a beneficial use project in late June 2018. On July 2, 2018, the Solid Waste Management Program discussed the beneficial use process with Doe Run.

On July 9, 2018, the Solid Waste Management Program received Doe Run's request for a beneficial use exemption. The project proposal described using sanitary lagoon sludge (bio-solids) from the city of Viburnum's community sewage system. Code of State Regulations 10 CSR 80-2.020(9)(B) allows for solid waste disposal area permit exemptions for materials considered solid wastes that are amenable to beneficial use projects. Materials for beneficial use are, by definition, not clean fill and may contain constituents of concern at levels above what would be found naturally in the area and above the Missouri Risk Based Corrective Action default target levels.

The Solid Waste Management Program quickly reviewed the project proposal and determined no environmental hazards would result from the project. The department approved the project and notified Doe Run on July 12, 2018. As a result of communication and coordination between the department's Solid Waste Management Program, Hazardous Waste Program, Water Protection Program, the city of Viburnum, and the Doe Run Company, this quick turnaround was able to occur. The project should be completed in approximately two months.



### Radioactive Transportation

Beginning in 2009, Missouri Revised Statutes 260.392 established the Radioactive Transportation Fee and charged the Missouri Department of Natural Resources' with meeting certain objectives, including the inspections, escorts and security for waste shipment and planning; coordination of emergency response capability; education and training of state, county and local emergency responders; the purchase and maintenance of necessary equipment and supplies for state, county and local emergency responders and emergency responses; oversight of environmental remediation; and administrative costs related to the shipment of high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity (HRCQ) shipments, spent nuclear fuel and low-level radioactive waste (LLW). Fees are collected from transporters of these types of materials and are deposited into the Environmental Radiation Monitoring Fund.

In August of 2016, the department introduced a new express online shipment system that is more efficient and user friendly than the previous shipment process. The new system offers LLW shippers and carriers a single stop portal for entering and tracking their shipments and payment information. The previous system was much slower and more time consuming, requiring a shipper to manually fill out and submit the shipping form to the department, which was then entered into a computer database. Shippers then had to go to a different website to pay for the shipment or manually mail in a check for payment processing. The new system has significantly reduced department staff time and received positive feedback from the LLW shipping users. This system was developed using monies from the fund.

The Hazardous Waste Programs' Federal Facilities Section works to coordinate multiple agencies in order to meet the outlined objectives. The Missouri State Highway Patrol provides escorts for any HRCQ shipments, which also go through a radiological inspection by the Missouri Department of Health and Senior Services (DHSS). In state fiscal year (SFY) 2018, 19 HRCQ shipments traveled through Missouri. In SFY 2018, 428 trucks and 15 trains transported low-level waste through Missouri.

The 19 HRCQ shipments were a noticeable decrease from SFY 2017. So far SFY 2019 is continuing that trend of decreasing HRCQ shipments with fewer shipments recorded in the first sixty days than those documented in either SFY 2017 or SFY 2018.

Since its inception, the Radioactive Transport Fee has allowed the department and DHSS to provide radiological response training to over 380 first responders through 22 classes held in different areas of the state. Based on funding levels, one class with 15 attendees was held in SFY 2018. This training is focused on communities along the major transportation corridors used by radioactive shipments – including interstates and some rail lines.

During SFY 2018, the department purchased radiation detection equipment paid for by the Radioactive Transportation Fee. The amount of equipment an agency can qualify for is determined by the number of first responder staff who attended training. This equipment includes the Canberra UltraRadic-Plus radiation field measurement device and the Ludlum Model 26-1 Frisker survey meter. This equipment will assist in detecting and measuring radioactive contamination at the scene of an incident. Eight Canberras and five Ludlum kits were purchased in SFY 2018.

The establishment of the Radioactive Transport Fee and subsequently, the Environmental Radiation monitoring fund, has facilitated the transportation of radioactive waste and materials throughout Missouri by keeping first responders trained and equipped. Missouri's citizens and environments are also protected from the potential hazards of radioactive waste and material transportation.

### Regional Office Hazardous Waste Compliance Efforts

- Conducted 253 hazardous waste generator compliance inspections
  - 67 at large quantity generators.
  - 97 at small quantity generators.
  - 70 at conditionally exempt small quantity generators.
  - Five at resource recovery facilities.
  - Five focused compliance inspections.
  - Nine at E-waste recycling facility inspections.
- Issued 52 letters of warning and 54 regional office notices of violation requiring actions to correct violations observed during the 253 inspections noted above. Of the 54 regional office notices of violation issued, one included a referral to the Hazardous Waste Program to consider further enforcement action.
- Conducted 39 compliance assistance visits at hazardous waste generators.
- Responded to 12 requests for general assistance.
- Received 11 citizen concerns regarding hazardous waste issues and conducted field investigations on nine citizen concerns.

### Hazardous Waste Compliance and Enforcement Section

As of July 1, 2018, the department restructured the Compliance and Enforcement Section, and all seven staff from the Underground Storage Tanks Compliance and Technology Unit combined with the program's Tanks Section. In addition, the department did not fill the Compliance and Enforcement's vacant Special Facilities unit chief and the department utilized the position in another program. Additionally, three staff of the Special Facilities Unit shifted and combined with the Compliance and Enforcement Hazardous Waste Enforcement Unit. The Special Facilities Unit consisted of two inspectors who conduct hazardous waste compliance inspections of permitted treatment, storage and disposal facilities; an inspector of transporters who haul hazardous waste, used oil and infectious waste and who also reviews license applications for compliance and maintains the department's transporter database and list; and a polychlorinated biphenyl inspector. The Compliance and Enforcement Section now consists of the reorganized Hazardous Waste Enforcement Unit and its unit chief, the section chief, section planner, and senior office support assistant. Each of the staff is currently meeting to review all section tasks and making changes to assure backup is available to meet all section goals.

### Hazardous Waste Enforcement Unit

During the reporting period, three staff left the unit for other employment and the unit has since filled two of those vacancies. Nicolas Heisler joined the unit as an Environmental Specialist I and is currently training to conduct PCB inspections. Kevin Thomeczek transferred to the unit from the Kansas City Regional Office as an Environmental Specialist III and is primarily focused on enforcement and compliance assistance activities. The program is currently working to fill the third vacancy. To enhance professional development and create redundancy within the unit, staff are cross-training on the various responsibilities within the unit. This should help assure the unit has backup and is able to continue to meet expectations for each of the important duties during periods of extended absence or staff turnover.

**Permitted TSDF Inspectors** – Inspectors conducted 15 inspections of commercial and non-commercial hazardous waste treatment, storage and disposal facilities.

**Hazardous Waste Transporters** – Staff completed 136 Hazardous Waste Transporter License compliance background checks. The inspector conducted 15 inspections at seven facilities and updated the Missouri’s List of Licensed Hazardous Waste Transporters. The list includes transporters licensed to haul hazardous waste, infectious waste and used oil in Missouri and it can be accessed on our webpage: [dnr.mo.gov/env/hwp/transporters.php](http://dnr.mo.gov/env/hwp/transporters.php).

### Enforcement Efforts

- Resolved 12 hazardous waste enforcement cases.
- Received 16 new enforcement cases.

Based on negotiations between the department’s Office of the Director’s staff and EPA Region VII directors, the state requested and agreed to accept 16 ongoing hazardous waste enforcement cases from EPA Region VII for the state to review and take appropriate action. Staff has been busy evaluating the violations related to these cases, working with the facilities to help achieve correction of remaining violations, and determining the appropriate remaining corrective actions and penalties for the violations that occurred.

### Pesticide Collection Program Activities

The pesticide collection program presented information about proper waste pesticide disposal at commercial pesticide applicator training during January at five locations throughout Missouri. A total of 2,191 applicators participated in the training. Department staff worked with the University of Missouri Extension, and with the Missouri Departments of Agriculture, Conservation and Transportation during the training with each agency staff presenting on their area of expertise.

Program staff created a fact sheet titled [Pesticide Container Management](#) (PUB 2727). The fact sheet provides the proper methods for managing empty pesticide containers.

This spring, staff put together a video describing the proper procedure for performing manual triple rinsing on a used pesticide container. The video can be viewed at the pesticide collection program webpage at [dnr.mo.gov/env/hwp/pesticide/](http://dnr.mo.gov/env/hwp/pesticide/).

### Pesticide Collection Events

Program staff conducted four pesticide collection events from January through June. The first event, held March 10, at the University of Missouri’s Fisher Delta Research Center in Portageville, collected 8,846 pounds of waste pesticide from 48 participants. This event broke the record for the most pounds of waste pesticide collected at any one collection. A large number of bulk containers of pesticide were received along with the usually large amount of 2.5 gallon containers typically collected from this region of the state.

The second collection took place March 24, at Orscheln Farm and Home in Bethany, and collected a total of 3,360 pounds of waste pesticide from 19 participants. The collection totals for this event were near average when compared to other collections in northwest Missouri. The collection was still successful despite the rainy, cool day.

# Missouri Department of Natural Resources - Hazardous Waste Program

## ENFORCEMENT

The third collection took place May 19, at the Palmyra Recycling Center in Palmyra, and collected 6,800 pounds of waste pesticide from 35 participants. A much larger number of householders participated in this collection versus the other collections where mainly farmers participated.

The fourth collection event took place June 23, at the MFA Agri-Services in Perryville, and collected 4,700 pounds of pesticide waste from 37 participants. Most of the containers of pesticide collected were 2.5 gallon in size.

The four events resulted in collection of approximately 85,000 pounds of waste pesticide from 139 participants. The average number of participants per collection was 35, which is significantly higher than the 27 participants per collection from 2012 through 2017. Nearly 23 percent of participants heard about the events solely from postcards sent to private pesticide applicators in the county and in counties surrounding the collection location. Beginning with the third collection in 2017, staff has sent postcards for each collection. Two more collections are scheduled this year with one in Nevada on July 21, and the last event for the year to be held in Jefferson City on Sept. 8.



### Petroleum Storage Tank Statistics

During State FY18, the department accomplished the following work related to petroleum storage tanks:

- Regulated 3,366 facilities with 8,721 active USTs.
- Properly closed 367 tanks
- Reviewed 124 closure reports.
- Approved 106 closure notices.
- Responded to 11 emergencies involving petroleum releases.
- Oversaw completion of 152 remediation sites.
- Issued 186 certificates of registration.
- A total of 96 new releases were reported.
- Department staff were notified of 67 new installations at tank sites and received 45 new site registrations.
- The Compliance and Enforcement Section staff resolved 46 cases involving violations.
- At the end of FY18, there were 102 active enforcement cases.

Financial responsibility compliance was at 98.4 percent. This number reflects insurance coverage from both the Missouri Petroleum Storage Tank Insurance Fund and other private policies and statements. There were 51 state and federal exempt sites. This number does not include out-of-use tanks, which are not required to have financial responsibility.

### Department Attends PACE of Mid-America

In February, Tanks and Compliance and Enforcement staff recently attended the Petroleum & Convenience-Store Association Exposition of Mid-America (PACE) held in Kansas City. PACE is a Midwest tradeshow with more than 4,000 attendees from the four-state area of Missouri, Kansas, Iowa and Nebraska. This regional tradeshow attracts many key industry leaders and this features the latest in petroleum and convenience store products, tank system equipment, hardware, soft goods, technology and the hottest new trends and services. Staff had a chance to meet and inform members of the industry in an informal setting. Staff answered many questions, discussed policies and even received a few compliments.

### Tanks Section Planning Workshop at MWCC Conference

In July, the Tanks Section participated on the advisory board of the Missouri Waste Control Coalition to help plan the 2017 Missouri Waste Control Coalition (MWCC) Conference at the Lake of the Ozarks. The Tanks Section held a tanks workshop as part of the conference. This was their tenth annual workshop in conjunction with the MWCC Conference events. This workshop is targeted toward environmental consultants who provide services to tank owners and operators. The workshop provided consultants with information and training regarding free product recovery, underground injection control, ecological risk assessments, and other remediation topics.

Additionally, MWCC provided two trainings that our staff participated in this year: 40 hour HAZWOPER and Characterization and Remediation of Fractured Rock (ITRC). MWCC plans to continue to provide the HAZWOPER training each January. Additional trainings are also being coordinated with ITRC. These trainings are provided with minimal cost to the public. The 40 hour HAZWOPER training is provided at the department's 1730 E. Elm St. building.

TANKS

**Petroleum Storage  
Tanks Regulation  
June 2018**

<b>Staff Productivity</b>	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	TOTAL
Documents received for review	172	179	186	199	130	174	197	190	203	170	155	154	2109
Remediation documents processed	128	162	136	134	188	116	154	173	143	159	136	184	1813
Closure reports processed	7	11	13	5	10	12	9	22	7	12	6	10	124
Closure notices approved	3	12	14	9	10	7	13	7	3	8	11	9	106
Tank installation notices received	7	7	2	7	8	3	8	4	5	6	6	4	67
	6	9	3	5	5	7	1	2	2	1	3	1	45
<b>Facility Data</b>	<b>Jul-17</b>	<b>Aug-17</b>	<b>Sep-17</b>	<b>Oct-17</b>	<b>Nov-17</b>	<b>Dec-17</b>	<b>Jan-18</b>	<b>Feb-18</b>	<b>Mar-18</b>	<b>Apr-18</b>	<b>May-18</b>	<b>Jun-18</b>	<b>TOTAL</b>
Total in use, out of use and closed USTs	41,361	41,380	41,397	41,398	41,424	41,438	41,455	41,463	41,500	41,522	41,529	41,540	
Total permanently closed USTs	32,553	32,583	32,607	32,615	32,631	32,655	32,688	32,742	32,767	32,793	32,800	32,819	
In use and out of use USTs	8,808	8,797	8,790	8,783	8,793	8,783	8,767	8,721	8,733	8,729	8,729	8,721	
Out of use USTs	633	622	619	623	633	631	622	588	580	567	568	566	
Total hazardous substance USTs	405	407	407	407	407	407	407	407	407	407	407	407	
Facilities with in use and out of use USTs	3,389	3,387	3,385	3,382	3,383	3,381	3,379	3,362	3,365	3,368	3,369	3,366	
Facilities with one or more tank in use	3,157	3,158	3,159	3,156	3,156	3,155	3,151	3,148	3,153	3,158	3,158	3,157	

**Closures**

<b>Underground Storage Tanks</b>	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	TOTAL	All Yrs
Closure Reports Reviewed	7	11	13	5	10	12	9	22	7	12	6	10	124	
Closure Notices Approved	3	12	14	9	10	7	13	7	3	8	11	9	106	
Number of Tanks Closed (Closure NFA)	28	30	38	6	35	34	43	44	45	41	15	8	367	

**Cleanup**

<b>Underground Storage Tanks</b>	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	TOTAL	All Yrs
UST release files opened this month	4	12	5	3	7	7	6	8	11	7	4	4	78	6,946
UST cleanups completed this month	10	11	17	5	12	11	6	14	17	10	6	9	128	6,246
Ongoing UST cleanups	742	743	732	731	725	721	722	718	711	708	704	700		
<b>Aboveground Storage Tanks</b>														
AST release files opened this month	2	2	1	1	0	1	1	1	1	0	3	0	13	514
AST cleanups completed this month	0	1	2	3	1	1	4	2	0	1	3	1	19	345
Ongoing AST cleanups	175	177	176	173	172	174	171	170	170	169	169	169		
<b>Both UST and AST</b>														
Total release files-both UST & AST	0	0	0	0	0	0	0	0	1	0	1	0	2	85
Cleanups completed-both UST & AST	1	0	0	0	0	0	0	0	1	0	1	0	2	61
Ongoing cleanups-both UST & AST	24	24	24	24	24	24	24	24	24	24	24	24		
<b>Unknown Source</b>														
Total release files-unknown source	1	0	0	0	0	0	0	1	0	0	0	1	3	233
Cleanups completed-unknown source	0	0	0	0	0	0	1	1	0	0	0	0	2	216
Ongoing cleanups-unknown source	16	17	16	17	18	17	17	17	17	18	17	17		
Documents Processed	128	162	136	134	188	116	154	173	143	159	136	184	1813	
*Reopened Remediation Cases	0	1	0	1	0	0	0	0	0	0	0	0	2	90

\* Reopened Remediation Cases was added Nov. 18, 2009 - the cumulative total has been queried and a running total will be tracked/reported with the FY 2010 Tanks Section Monthly Reports.

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

**Missouri Hazardous Waste Management Commission Meeting**

**September 13, 2018**

**Agenda Item # 7**

**Legal Update**

**Issue:**

Routine update to the Commission on legal issues, referrals, filings, appeals, and any pending Administrative Hearing Commission cases.

**Information:**

Information Only.

**Presented by:**

Jennifer Hernandez, Commission Counsel, Office of the Attorney General

**Missouri Hazardous Waste Management Commission Meeting**

**September 13, 2018**

**Agenda Item # 8**

**Public Inquiries or Issues**

**Issue:**

Opportunity for participants to speak to the Commission on relevant issues or matters before them.

**Information:**

Information Only.

**Presented by:**

John D. Jurgensmeyer, Director, HWP

**Missouri Hazardous Waste Management Commission Meeting**

**September 13, 2018**

**Agenda Item # 9**

**Future Meetings**

**Information:**

**Meeting Dates:**

Date	Time	Location
Thursday, December 20, 2018	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, March 21, 2019	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, June 20, 2019	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, September 19, 2019	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101

**Recommended Action:**

Information Only.