



GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
April 18, 2013; 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.

COMMISSIONERS PRESENT IN PERSON

Commissioner Charles Adams
Commissioner Deron Sugg

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

COMMISSIONERS PRESENT BY PHONE

Chairman Michael Foresman
Vice-Chairman Andrew Bracker
Commissioner Elizabeth Aull
Commissioner Jamie Frakes

Commissioner Adams called the General Session to order at approximately 10:02 a.m.

A roll call was taken with Commissioner Sugg, Commissioner Adams, Chairman Foresman, Commissioner Aull, Commissioner Frakes and Vice-Chairman Bracker acknowledging their participation in today's meeting.

1. PLEDGE OF ALLEGIANCE

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

2. APPROVAL OF MINUTES

- General Session minutes from the December 20, 2012, meeting:

Chairman Foresman made a motion to approve the December 20, 2012, General Session minutes. Commissioner Sugg seconded the motion.

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

3. FINDING OF NECESSITY - TANKS RISK BASED CORRECTIVE ACTION

Tim Chibnall, Director's Office, addressed the Commission, and provided information regarding the Department's request for approval of the Finding of Necessity for the Tanks Risk Based Corrective Action (RBCA) rule change package. Mr. Chibnall had a PowerPoint presentation for the Commission that outlined information regarding the rule development process, including updating the RBCA guidance, and today's requested action.

Mr. Chibnall went on to state that this rule package pertained to three rules that affect petroleum underground storage tanks. He noted that the proposed rule changes include incorporating an updated RBCA guidance document, and that the changes are needed as the existing rule has a sunset date of 12/31/12, which has already passed. He advised that the Department needs to get rid of the sunset date but retain language to incorporate the 2004/2005 RBCA guidance in addition to adding language to incorporate the updated guidance into rule. Mr. Chibnall went on to state that the Department thought revised guidance would be in place prior to the sunset date, but that had not happened. Mr. Chibnall noted that the RBCA guidance documents are referenced in three rules and that the updates to the guidance are limited in scope.

Mr. Chibnall noted that Department staff met with representatives of the Petroleum Storage Tank Insurance Fund (PSTIF) and the Missouri Petroleum Marketers and Convenience Store Association (MPCA) on numerous occasions and had come to agreement on only a limited number of guidance update issues. He noted that the Department and PSTIF held two webinars in March 2013 to inform interested parties about the proposed rules and guidance update and to facilitate their input on both.

Mr. Chibnall provided an outline of how the guidance has been revised and explained the rulemaking pertains to existing rules 10 CSR 26-2.062, 10 CSR 26-2.078, and 10 CSR 26-2.082. He noted that the Regulatory Impact Report (RIR) was published on 3/13/13, and that the RIR comment period ends on 5/1/13. He went on to advise that the rulemaking schedule developed by the HWP calls for the rules to be filed with the Secretary of State's office on 6/3/13, followed by publication of the rules in the *Missouri Register* on 7/1/13. The HWP anticipates holding a public hearing for the rulemaking during the August Hazardous Waste Management Commission meeting, which will fall on 8/15/13. The schedule calls for the Commission to make a final decision regarding the rulemaking during their 10/17/13 meeting. The rule package is to be published in the *Code of State Regulations* on 1/31/14, with the rule changes becoming effective on 3/2/14.

Mr. Chibnall ended his presentation with a request that the Commission approve the Finding of Necessity and thereby allow the Department to proceed with the rulemaking. He inquired if the Commission had any questions regarding the presentation and the motion request.

Vice-Chairman Bracker addressed the Commission and advised that he did not recall seeing the email notices or notices pertaining to the webinars that Mr. Chibnall had discussed during his presentation. He noted his interest in seeing any comments that the Department had received regarding the issue. Vice-Chairman Bracker went on to note that as the public

discussion had evolved, meetings had been routinely cancelled in 2012. He stated that he understood that representatives from the regulated community and Department staff had held additional meetings to work through areas of conflict. He noted his concern that although the Department made an effort to inform the public about the guidance update and rulemaking, he did not feel that the effort was the same as offering an open, above-board discussion of each issue. He advised that he had not seen the updated guidance on the website, and that he wanted to make sure the public is aware that the updated guidance is available and that they have the opportunity to comment on it if they had comments or concerns. He stated that he would like to see a broader effort towards this open discussion and that he reserved judgment until he had an opportunity to see the revised guidance, and that he wanted it available to the public.

Mr. Chibnall responded that he was unsure why Vice-Chairman Bracker was not on the distribution list for the information. He also advised Vice-Chairman Bracker that the revised guidance was on the HWP's "Rules in Development" webpage, which is accessible from the HWP home page. He noted that he would send Vice-Chairman Bracker a direct link in an email, following the meeting.

Ms. Leanne Tippett Mosby, Director, Division of Environmental Quality, addressed the Commission and responded to Vice-Chairman Bracker's comments. She advised him that the Hazardous Waste Program had held meetings with PSTIF and MPCA at the direction of the Division and Department; noting that because of this, she was responding as she felt it was more appropriate than having the Program respond. Ms. Tippett Mosby explained that the Department is committed to doing everything it can to ensure the public is informed every step of the way and has been and will be provided opportunities for input and discussion on the proposed rules and updated guidance.

Vice-Chairman Bracker responded that he was offering an alternative. He suggested removing the sunset date, that the 2004-2005 guidance would stay in place; and that before any updated guidance was proposed for incorporation into rule, a more public vetting of the suggested guidance revisions be made. He went on to note that he believed the Department had requested a delay in this rulemaking process previously, based on waiting for the EPA's updated Vapor Intrusion guidance to be released.

Ms. Tippett Mosby responded, affirming that a request for a delay had been asked for but that the EPA had not met their deadline for release of the guidance document. She noted that the Department is trying to provide the most clarity, and that it is the Department's position that, whenever possible, rules should be used to outline a required process rather than guidance. She went on to advise that the rules and guidance are available for review and comment and that there will be future public meetings during which the public may provide input and comments. She noted that all comments received would be reviewed and responded to as appropriate.

Vice Chairman Bracker inquired as to whether rule amendments will be necessary once EPA finalizes their guidance. Ms. Tippett Mosby advised that amendments will likely be necessary.

Vice-Chairman Bracker inquired as to how comments regarding the proposed updated guidance would be addressed and, if need be, incorporated into the guidance.

Mr. Chibnall responded that it could be done easily, that if changes were brought about due to comments received during the public comment periods (whether for the RIR or the rules and guidance), the Department would make the changes to the guidance itself and explain what was changed and why in the formal response to comments.

Vice-Chairman Bracker expressed his discomfort with the process, stating that it had started out as an open process but had evolved into a closed process. He noted that although this process allowed for comments, it didn't actually provide an opportunity for as much discussion.

Ms. Tippet Mosby committed that she and the Department's staff will personally meet with any individual or group that want to meet and discuss the proposed changes.

Chairman Foresman advised that he appreciated Vice-Chairman Bracker's viewpoint but he is comfortable with the process used to-date. He noted that he was not aware of anyone that was interested in commenting on this at this time and that he proposed that the Commission make a motion on the issue.

Chairman Foresman made the following motion:

"I move that the Commission adopt the Finding of Necessity that the proposed amendments to Title 10, Division 26 are necessary to carry out the commission's rulemaking authority and that the Department proceed with the filing of the proposed amendments with the Secretary of State."

Commissioner Sugg seconded the motion. A Roll Call vote was taken:

Chairman Foresman	Yes
Vice-Chairman Bracker	Nay
Commissioner Aull	Yes
Commissioner Frakes	Yes
Commissioner Adams	Yes
Commissioner Sugg	Yes

It was noted that the votes were five in favor and one against. Motion carried.

At 10:55 a.m. Commissioner Frakes advised that he would have to leave the call, as he was traveling.

4. ENERGY POLICY ACT COMPLIANCE UPDATE

Ms. Heather Peters, Compliance and Enforcement Section, HWP, addressed the Commission, and gave a brief PowerPoint presentation to the Commission on the Program/Department's efforts towards compliance with the 2005 Energy Policy Act.

She advised the Commission that the Act covered UST requirements, and noted that reporting and bookkeeping, delivery prohibition, inspection programs, financial responsibility for installers and manufacturers or secondary containment, and operator training were the focus of the legislation.

Ms. Peters went on to advise that the EPA had reviewed the state's compliance program for these issues and had approved all but the operator training and the financial responsibility or secondary containment components of the state's plan. Ms. Peters advised the Commission that addressing the operator training component was begun in 2011 with passage of Senate Bill 135, which ultimately identified that PSTIF must decide whether to create and fund an operator training program. She noted that the PSTIF Board had voted to move forward with an operator training program in July 2012, and had been presented a first draft of potential regulations in late November 2012. She also noted that the PSTIF Advisory Committee was scheduled to discuss this issue at their April 19, 2013, meeting. The EPA had been kept apprised of the progress of this regulation development effort.

Ms. Peters then addressed the financial responsibility or secondary containment components, and noted that the EPA had noted three deficiencies in the state's compliance efforts with regards to financial responsibility. She went on to advise that the EPA had denied the state's financial responsibility program in correspondence dated January 18, 2013; but that EPA was working with the state to address their concerns.

Ms. Peters went on to describe to the Commission what "secondary containment" consisted of and noted the EPA was still in the process of reviewing the state's compliance plan on this component. Photos and descriptive information were provided for the Commission's benefit.

Following the presentation, Ms. Peters inquired as to whether the Commission had any questions. None were posed. This was provided as information only and required no other action on the part of the Commission.

Commissioner Adams called for a 10 minute recess at 11:10 a.m.

The meeting was called back to order at 11:20 a.m.

5. RULEMAKING UPDATE

Mr. Tim Eiken, Rules Coordinator, HWP, addressed the Commission and advised that he would be providing a brief update on the rules the Program had been working on since the last meeting. He noted that a significant portion of the effort had been devoted to identifying those rules affected by House Bill 1251, which he would address specifically during the next agenda item. He went on to note other items that may be of interest to the Commission included:

- During the October 2012 meeting, the Commission voted to approve the Finding of Necessity for the federal rules promulgated through 2010. These efforts have been placed on hold while the HB1251 issues are addressed;
- The review of the current rules have been completed and there will be updates in addition to issues created by the "no stricter than" legislation;

- With regards to the Exide situation, proposed rule language to address this issue changed with the passage of HB1251. The “no stricter than” language will negate our proposed rule language. Discussions with Exide will continue to try to find some resolution that can be brought before the Commission at a future date;
- Because of our authorization by the EPA, we are required to notify them of any changes to existing rules. A letter has been sent to the EPA notifying them that changes will need to be made to our rules due to the HB1251 legislation. The EPA has asked when we will have all the changes ready for their review.

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

6. HB1251 IMPLEMENTATION UPDATE

Mr. Tim Eiken, Rules Coordinator, HWP, addressed the Commission and provided them with a PowerPoint presentation outlining the Department’s efforts to implement the provisions of HB1251. He noted that the legislation went in to effect on August 28, 2012, and the timeline for compliance was discussed. A background of the legislation and a summary of the provisions were provided.

Mr. Eiken outlined the efforts to date to review the effected rules from Chapters 3,4,5 and 7, and outlined those items that were not affected. Non affected items include hazardous waste transporters, used oil, universal waste, resource recovery, underground storage tanks, solid waste, and other state programs including the Brownfields program, radioactive waste fees, the DERT fund and the Registry.

Mr. Eiken noted how the current rules would be affected and described the process the Department had been working through with stakeholders to assess the current rules to determine if they could be kept as is or would need to be amended or rescinded. He went on to state that this review had identified other issues with the rules, not associated with the HB1251 restrictions, where amendments were needed to correct references, remove outdated language, or provide additional clarification. Mr. Eiken described a color coded document that had been produced, which outlined the changes that the Department believed would need to be made; and that once it was finalized it would be made available to the Commission for review. He also advised the Commission that an Options document was being worked on to address the Packaging, Marking and Labeling issue that had been discussed in recent Hazardous Waste Forum stakeholder meetings. This would also be provided to the Commission for review when a draft document was finished.

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

7. TANKS FINANCIAL RESPONSIBILITY UPDATE

Mr. Mike Martin, Compliance and Enforcement Section, HWP, addressed the Commission and provided a brief update on the tanks financial responsibility process. Mr. Martin outlined the

process and reviewed the expedited process the Commission had approved in 2008. Mr. Martin advised the Commission that Missouri law and regulation requires tank owners and operators to maintain Financial Responsibility so that they will have funds to take corrective action and compensate third parties for bodily injury and property damage if they have petroleum releases from their Underground Storage Tanks.

Mr. Martin noted that the expedited program remains successful at prompting compliance; and as of April 3, 2013, of the 3243 regulated active tank sites in Missouri, 2574 currently have coverage from the Missouri Petroleum Storage Tank Insurance Fund (PSTIF), 583 facilities have acceptable coverage other than PSTIF, 57 are exempt from Financial Responsibility requirements, and only 29 sites have unknown coverage.

Mr. Martin also advised the Commission that as of the April 3, 2013, report of the sites with unknown Financial Responsibility coverage, nine sites have been sent initial letters, five were recently cited with Notices of Violation by the Compliance and Enforcement Section, one is being prepared for referral to the Attorney General's Office (AGO) by the Compliance and Enforcement Section, and 14 have been referred to the AGO for legal action

Mr. Martin provided the Commission with the opportunity to ask questions, to which there were none.

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

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

Mr. Dennis Stinson, Superfund Section, HWP, provided the Commission with background information as to what type of sites were included on the Registry. He noted that a yearly update was provided to the legislature, in the form of the Annual Report. Mr. Stinson noted that sites on the Registry were given a rating from 1 to 4, dependent on the level of contamination present at the site. He also noted that deed notifications, and annual inspections were part of the Registry process. Mr. Stinson reported that no new sites have been added since 2008.

Mr. Stinson advised the Commissioners that the Annual Report was available in paperback form, was available on CD or was available on line if the Commissioners wished to view this year's report.

An opportunity was provided for the Commissioners to ask questions, to which there were none.

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

9. MISSOURI PESTICIDE COLLECTION UPDATE

Mr. Andrew Reed, Compliance and Enforcement Section, HWP, addressed the Commission and provided a PowerPoint presentation overviewing Missouri's pesticide collection events from 2012 and 2013 to date. He noted that the Missouri Pesticide Collection Program is part of a Supplemental Environmental Project (SEP) funded by Walmart as the result of a hazardous waste enforcement case. The SEP was established in a Settlement Agreement that required that \$1,050,000.00, be spent to collect and dispose of pesticides and herbicides. He advised the Commissioners that the collection program is open only to households and farmers, is focused on the rural areas of the state, and only pesticides and herbicides are accepted at these events.

Mr. Reed reported that the preparation, advertising, and physical collections are being conducted by the Environmental Quality Company, with oversight from Department staff, and that nine events were conducted in 2012 collecting over 68,000 pounds of waste. Mr. Reed went on to report that eight more events have been scheduled in 2013, with the first one having been held in West Plains, Missouri, on March 9th; and that three events have been held so far in 2013, with the total waste collected from the first two events totaling approximately 18,000 pounds.

An opportunity was provided for the Commissioners to ask questions, with the following questions received and responded to by Mr. Reed:

Commissioner Sugg inquired as to where the collected waste goes after it was received by the Environmental Quality Company?

Mr. Reed responded that the waste was separated and broken down, and was then shipped to appropriately permitted disposal facilities.

Chairman Foresman inquired as to whether there were any other sources of funding to continue these activities?

Mr. Reed responded that the funding was limited and that when current funding was gone, it was gone. He noted that efforts were being made to make the best use of the remaining funds; that issues like advertising had been reviewed and that certain advertising had been cancelled as some ads were not productive. He noted that this may allow for funding additional events.

Chairman Foresman inquired as to whether the cost of the disposal was the highest cost associated with this program?

Mr. Reed responded that it was, that it was estimated to cost from \$4.50 to \$5.00 per pound for disposal.

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

10. QUARTERLY REPORT

Dee Goss, Public Information Officer, Hazardous Waste Program, addressed the Commission and gave brief highlights from the October through December 2012 Quarterly Report. Ms. Goss noted the new format for the quarterlies, advising that the quarterlies would now focus on remediation, enforcement, permits and tanks activities.

Commissioner Frakes complimented the format and the report, noting its' informative value to the Commission.

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

11. LEGAL UPDATE

Ms. Kara Valentine, Commission Counsel, addressed the Commission and noted that she had a couple of items that may be of interest to the Commission. She began with an update on Tanks Financial Responsibility, noting that the AGO has been successful in arguing in court for the need to lock fuel dispensers on stations where no Financial Responsibility mechanism was in place. This allows convenience stores to continue to operate their stores, but not sell gas, which has been effective in getting them to comply with the financial responsibility requirements. Before going in to court to get an order the stations are typically asked to voluntarily lock their dispensers until financial responsibility could be obtained.

Ms. Valentine continued with an update on a press release that had been sent to the Commissioners previously regarding the Teva site. She noted that a settlement had been reached with regards to the legal action surrounding a 2008 release from their wastewater treatment plant that turned 22 miles of the Salt River, green. She also noted that as a result of the release, the Department had inspected their hazardous waste practices, finding several violations. Ms. Valentine explained that Teva was a large pharmaceutical manufacturing site located in Mexico, Missouri. She went on to advise that the settlement reached included a penalty of \$2.25 million dollars, which would provide \$66,000, in fees and taxes, to the Hazardous Waste Fund; \$26,000 for Natural Resource Damages and \$60,000 reimbursement for past investigative costs to the state. They also agreed to pay future costs for monitoring compliance.

Ms. Valentine proceeded to provide information on the Bridgeton Landfill site, located next to Lambert Airport in St. Louis, MO. She noted that an underground fire at the site has been burning for approximately 2 years, and that strong odors have been reported from the site, sometimes noticeable 2-3 miles away. The AGO filed a lawsuit in March for Air, Water and Hazardous Waste violations. The Hazardous Waste issue was in regards to leachate generated, as benzene in some batches of leachate causes it to be a toxic hazardous waste. She advised that this is a sanitary landfill and that some of the leachate from the site is toxic and is being stored on-site, as the Metropolitan Sewer District will no longer take it for processing. She noted that DNR's website has a lot of good information on the site.

Ms. Valentine's next update involved the EBV Explosives site in Carthage, Missouri. She advised that this company, which incinerates outdated military ammunition, had reached a settlement with the US EPA for a \$580,000 civil penalty for air and hazardous waste violations. She noted that this was an EPA lead case because the EPA had performed the initial inspection and that the settlement had resulted in additional air emission controls being added to the Hazardous Waste Permit. She noted that this case points out that the EPA does do some independent inspections in the state and when there are enforcement actions, they will take the lead and the state is not involved.

Ms. Valentine ended her presentation with noting that the state had tried to get Teva to do a Supplemental Environmental Project (SEP), which would have included collection events for household pharmaceuticals, but they had declined. This type of project would have been similar to the pesticide collection events sponsored by Walmart in their settlement.

Commissioner Adams inquired as to the location of the explosives disposal site. Ms. Valentine noted that it was located in Carthage, MO, and that it was also previously known as the ICI Explosives/Atlas Powder Company.

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

12. PUBLIC INQUIRIES OR ISSUES

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission and advised that he had received one request to address the Commission, from Kevin Perry.

Mr. Kevin Perry, of REGFORM, addressed the Commission and advised that he just wanted to make a point of clarification regarding the HB1251 presentation made by the Department, and the options the Commission had with regards to the actions they could take on rules. He discussed the provisions of the law and noted that the law did allow the Commission to repeal rules and not just retain or modify them.

Mr. Perry then went on to discuss the DOT hazard labeling issue and noted that he was happy to report that the last Hazardous Waste Forum was the first real opportunity to have a back and forth dialog with the first responder representatives. He stated that he thought that the sides were not that far apart on the issue and that he hopes a consensus could be reached on the issue.

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

13. OTHER BUSINESS

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission and began with updating them on current legislation. He noted that the legislative session was in full swing and provided the Commission with updates on the most critical bills to the

program. Mr. Lamb advised that it is down to about the final month of the legislative session, and there are a number of bills out there that affect the Program. The most critical related to the Hazardous Waste Program are those that include extensions for the hazardous waste generator fees and the 50 cent fee on lead acid batteries, which would otherwise sunset on December 31 of this year. Mr. Lamb provided the Commission with information on several bills, noting how they impacted the Program:

- HB 604 extends hazardous waste fees for five years and also includes language that would streamline the permit process by eliminating certain requirements of the hazardous waste permitting process, including health profiles, five-year reviews, post-closure permits, habitual violator reviews, and transportation route assessments. He noted that the bill had advanced to the House Rules Committee, but that they had not yet taken any action on the bill.
- HCS for HB 881, which in its current form does not extend the hazardous waste fees, but authorizes the Department of Natural Resources to conduct a comprehensive review of the hazardous waste fee structure and to come up with recommendations for changes to the fee structure. Changes would be submitted to the HWMC and, if approved, adopted through the rulemaking process, subject to approval by the General Assembly.

He noted that it also included the permit streamlining provisions included in HB604 and a fast-track rulemaking provision that would provide for an expedited rulemaking process for incorporation by reference of federal rules without modification. He noted an issue of concern with the bill was that it would remove the authority for the PSTIF to develop an operators training program, which is needed to compliance with the Energy Policy Act and for the Department to maintain its grant funding. He also advised that the Department would be watching this bill closely as it appeared to be moving through the legislature. The next step for the bill was to be placed on the House Calendar for consideration by the full House of Representatives.

- SB 417 would extend hazardous waste fees for five years, in addition to authorizing the Department to conduct the review of the fee structure discussed in HB 881. The bill also includes the permitting streamlining provisions. Mr. Lamb advised that a hearing was held on the bill but no further action yet taken.
- HB 740 would extend all hazardous waste fees for five years from December 31, 2013, to December 31, 2018. A hearing was held in the House Tourism and Natural Resources Committee, but no action has been taken on the bill.
- HB 880 makes a number of changes to Department boards and commissions, including reorganization of the Solid Waste Advisory Board (SWAB) and transferring the SWAB from under the Department to under the HWMC. The bill would also provide for one member on the SWAB to also serve on the HWMC. Mr. Lamb noted that a hearing was held on the bill, but no other action had yet been taken and it did not appear to be moving.

- HB 326/SB363 would eliminate the existing E-Scrap program in Missouri and replace it with a new program to be overseen by the Department's Solid Waste Management Program. A hearing was held on the bill, but no other action has been taken.

Mr. Lamb noted that the bill was referred to the Senate Commerce, Consumer Protection, Energy, and the Environment Committee but the committee has not had a hearing on the bill.

Mr. Lamb then provided the Commission with an update on the current State Budget, noting that in the Governor's Recommended Budget, our Hazardous Waste Program budget is very similar to last year. He advised that changes to the budget included:

- Core reallocation of 2 FTE and Expense and Equipment to the Hazardous Waste Program from our Solid Waste Program.
- Superfund New Decision Item requesting a \$2.7 million General Revenue transfer related to federal match obligations.
- An increase in the PSTIF budget of \$105,000.
- The Program's Operating Budget would be approximately \$7.1 million, excluding any PSD, and funding for 147 FTE.

He noted that the budget had made it through the House with some changes and that it was currently with the Senate Appropriations Committee. He also noted that the Senate had restored most of the House changes and had also recommended Department-wide reductions in all funding sources for In-state & out-of-state travel. He advised that this created an HWP impact of approximately \$11,000 in appropriations; but noted that over-all, the Program was in pretty good shape with the budget

Mr. Lamb then provided the Commission with an update on the current Federal Budget, noting that the Federal Fiscal Year 2013 Sequestration is impacting current funding; one of the most difficult impacts has been an inability to plan with no exact impact numbers. The Proposed EPA Fiscal Year 2014 budget is 3.5% below the EPA's budget for Fiscal Year 2012, and it was expected that those reductions would be passed along to the state.

He noted that the Program has worked with EPA to add new-year funding to several current grant agreements and to extend the project periods to help manage the timing of federal funding reductions related to sequestration and on-going anticipated reductions. He advised that actual grant reductions may vary based on final budgets and grant award formulas and prior year special project funding. He noted the initial budget request for FY14 changes from FY12 enacted levels included:

- Brownfields – reduction 3.5%; approx. \$39,000
- Tanks combined reduction 3.7%; approx. \$58,000
- Superfund currently unknown- 3.5% would be approx. \$40,000

Mr. Lamb provided the Commission with an opportunity to ask questions, to which there were none at this time.

Mr. Lamb then advised the Commission that the state Auditor's office had announced that they would be doing an audit of the Program, which had begun on April 8th, and were expected to be performing their work until sometime in July. He noted that the Auditors were particularly planning to look at the Brownfields Program, and public financing of projects, but as they have come in so far they are taking a broader look at the Program. He noted that it would be a performance audit and that the Program was working to provide them with information they needed to complete their review.

Mr. Lamb also provided an update regarding Program vacancies. He noted that he had advised them at the December meeting that the Program had 20 vacancies at that time. He stated that even with turnover since then, progress was being made and we were down to 11 vacancies, with recommendations in the process for three of those. He noted that these included several key positions that the Program had been trying to fill, due to the retirement of several key staff and the loss of several other trained technical staff.

Mr. Lamb finished his presentation with noting that according to the Commission Operating Policies, elections would need to be held at the next meeting in June. He reminded the Commission, that the cancellation of the February meeting due to weather had moved those elections from the April to the June meeting this time.

Vice-Chairman Bracker thanked Mr. Lamb for the update and inquired as to whether there was anything the members of the Commission could do with regards to providing support for the fee extensions? He also inquired as to whether the audit of the BVCP tax credit program had anything to do with the remediation tax credits and the Department of Economic Development (DED) issues?

Mr. Lamb responded that with regard to the fee question, the Department would appreciate any advocacy the Commission would want to provide to their representatives on behalf of the Program and the importance of the work done by the Program.

In regard to the audit question, Mr. Lamb responded that it was connected with the DED's remediation tax credit program. He also noted that the auditors had specifically mentioned the Carondelet Coke site as one of the reasons for the audit. The site was in the newspaper recently related to the use of tax credits paying for remediation work. They also referenced that they would be looking at the DED and the tax credit program.

Vice Chairman Bracker then expressed that he hoped the audit would take in to account the benefits of these tax credits in stimulating job creation and new investments, which are carefully examined by the DED to ensure they overbalance the public investment of tax credits in these projects.

Mr. Lamb stated that he fully expected that they would audit the DED as well, giving them the opportunity to show the benefits of the program. He noted that the Department certainly would explain the benefits of the program as well, as we outlined our role in the process.

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

14. FUTURE MEETINGS

Commissioner Adams noted that the next meeting was scheduled for June 20, 2012.

Commissioner Adams made the motion to adjourn the meeting at 12:38 p.m. The motion was seconded by Commissioner Sugg.

Respectfully Submitted,


Debra D. Dobson, Commission Assistant

APPROVED 

Michael Foresman, Chairman

6 / 20 / 13
Date