



DRAFT

NOTICE OF OPEN MEETING

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

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

December 19, 2013

**Department of Natural Resources, Hazardous Waste Program
Bennett Springs/Roaring River Conference Rooms
1730 E. Elm Street
Jefferson City, MO 65102**

Note: Persons with disabilities requiring special services or accommodations to attend the meeting can make arrangements by calling the commission assistant at (573) 751-2747 or writing to the Hazardous Waste Program, P.O. Box 176, Jefferson City, MO 65102. Hearing impaired persons may contact the Hazardous Waste Program through Relay Missouri at 1-800-735-2966.

9:45 A.M. EXECUTIVE (CLOSED) SESSION

In accordance with Section 610.022 RSMo, this portion of the meeting may be closed by an affirmative vote of the Commission to discuss legal matters, causes of action or litigation as provided by Subsection 610.021(1). RSMo.

10:00 A.M. GENERAL (OPEN) SESSION

The General (Open) Session will begin promptly at 10:00 a.m., unless an Executive (Closed) Session has been requested; after which, the General Session will start as specified by the Commission's chairman.

Commissioner Roll Call

1. Pledge of Allegiance – Commissioners
2. Approval of Minutes – General (Open) Session, October 17, 2013 – Commissioners

Information Only:

3. Rulemaking Update – Tim Eiken, Rule Coordinator, HWP
4. HB 1251 Implementation Status – Tim Eiken, Rule Coordinator, HWP

Page Two

5. Tanks Update – Ken Koon, Chief, Tanks Section
6. Tanks Financial Responsibility Update – Mike Martin, Compliance and Enforcement Section
7. Solvent Contaminated Wipes Rule – Nicole Eby, Compliance and Enforcement Section
8. Permit Section Update – Rich Nussbaum, Chief, Permits Section
9. Missouri Hazardous Substance Site Locator – Hannah Humphrey, Brownfields/Voluntary Cleanup Section
10. Legal Update – Kara Valentine, Office of the Attorney General
11. Public Inquiries or Issues – David J. Lamb, Director, HWP
12. Other Business – David J. Lamb, Director, HWP
13. Future Meetings
 - Thursday, February 20, 2014 – to be held at the Bennett Springs/Roaring River Conference Rooms, 1730 E. Elm Street Conference Center, Jefferson City, MO

Adjournment

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

Meeting Date: December 19, 2013

ROLL CALL ROSTER

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

Missouri Hazardous Waste Management Commission Meeting

December 19, 2013

Agenda Item # 1

Pledge of Allegiance

Missouri Hazardous Waste Management Commission Meeting

December 19, 2013

Agenda Item # 2

Approval of Minutes

Issue:

Commission to review the General Session minutes from the October 17, 2013, Hazardous Waste Management Commission meeting.

Recommended Action:

Commission to approve the General Session minutes from the October 17, 2013, Hazardous Waste Management Commission meeting.

GENERAL

SESSION

MEETING

MINUTES

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
October 17, 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

Chairman Michael Foresman
Vice-Chairman Deron Sugg
Commissioner Jamie Frakes

The phone line was opened at approximately 9:30 a.m. for Commissioners calling in to today's meeting.

COMMISSIONERS PRESENT BY PHONE

Commissioner Elizabeth Aull
Commissioner Charles Adams
Commissioner Andrew Bracker

Chairman Michael Foresman called the General Session to order at approximately 10:00 a.m. The Hazardous Waste Management Commission went in to Executive Session at 10:00 a.m.

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

1. PLEDGE OF ALLEGIANCE

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

2. APPROVAL OF MINUTES

- Executive Session minutes from the August 15, 2013:
Vice-Chairman Sugg made the motion to approve the Executive Session minutes, which was seconded by Commissioner Frakes.
A vote was taken; all were in favor, none opposed. Motion carried. Minutes were approved.

- General Session minutes from the August 15, 2013, meeting:
Vice-Chairman Sugg made the motion to approve the General Session minutes, which was seconded by Commissioner Frakes.
A vote was taken; all were in favor, none opposed. Motion carried. Minutes were approved.
- General Session minutes, with corrections made, from the June 20, 2013 meeting:
Commissioner Aull made the motion to approve the amended General Session minutes, which was seconded by Vice-Chairman Sugg.
A vote was taken; all were in favor, none opposed. Motion carried. Minutes were approved.

3. ADOPTION OF ORDERS OF RULEMAKING

Mr. Tim Chibnall, Director's Office, addressed the Commission and attendees and provided a PowerPoint presentation overviewing the comments that had been received during the Public Comment period for the Tanks Risk Based Corrective Action (RBCA) rulemaking. The rulemaking package included amendments to 3 rules: 10 CSR 26-2.062 Assessing the Site at Closure or Change in Service, 10 CSR 26-2.078 Investigations for Soil and Groundwater Cleanup, and 10 CSR 26-2.082 Corrective Action Plan

Mr. Chibnall noted that he would be asking the Commission to adopt the Orders of Rulemaking for the three proposed amendments. He reminded the Commission that the three amendments were initially filed by the Department on June 17, 2013, with the Secretary of State, and would allow the use of current and updated RBCA guidance, as appropriate, for UST closure, release investigation, and corrective action after the Dec. 31, 2012 sunset date for use of the guidance found in the current rules. He noted the amendments would also incorporate into rule by reference a version of the RBCA guidance updated in 2013. He indicated that the Amendments were published in the July 15, 2013, edition of the *Missouri Register*. He also noted that the public comment period for this rulemaking opened on July 15, 2013, the public hearing for the rulemaking was held during the August 15 Hazardous Waste Management Commission meeting, and that the public comment period had closed on August 22, 2013.

Mr. Chibnall advised that, during the public comment period, the Department received 33 comments from the following: Brian Porter, Terracon; Carol Eighmey, Petroleum Storage Tank Insurance Fund; Mark Jordan, Wallis Companies; Donnie Greenwalt, Wallis Companies; and Ron Leone, Missouri Petroleum Marketers and Convenience Store Association. He advised that all of the comments pertained to the updated RBCA guidance document, that most suggested minor clarifications, and that the Department's responses to the comments could be found in the Orders of Rulemaking. He provided the Commission with a detailed review of each of the comments and the changes made to address each comment or the Department's reasoning for not accepting a comment.

Mr. Chibnall then went on to advise that because the Department proposed to revise the updated RBCA guidance in response to the comments, the date of the guidance document would also be revised to differentiate the revised document from its predecessor and that this necessitated a corresponding change of the date of the guidance in the amendments as well.

Mr. Chibnall then provided the Commission with the schedule for the remaining rule actions, provided the Commission approved the post-public comment period rules, noting the following:

- 10/17/13: Final HWMC action
- 1/2/14: Publish order of rulemaking in *Missouri Register*
- 1/29/14: Publish rules in *Code of State Regulations*
- 2/28/14: Rules effective

Mr. Chibnall ended his presentation, and inquired if the Commission had any questions.

Commissioner Bracker thanked Mr. Chibnall for the presentation, noting he had tried to keep up with the vapor intrusion guidance that US Environmental Protection Agency (EPA) is developing. He inquired as to how the release of that guidance would affect us downstream with the MRBCA tank rules.

Mr. Chibnall responded that the guidance was still draft and advised that there were strong indications that the EPA would be publishing the guidance. He indicated that from information he had gathered, it was anticipated but not certain, that the EPA would be publishing the final guidance before June 2014. He noted that this information was hearsay, and not information specifically released by the EPA.

He went on to state that what this guidance means to MRBCA is a bigger question. He noted that Department's Petroleum Vapor Intrusion subgroup was still reviewing and discussing the guidance, as well as guidance from other sources. He went on to explain that at this time we do not know where this process will go, but noted that the group is still working on this issue.

Commissioner Bracker inquired as to whether there were any areas of the guidance that the state law on "No Stricter Than" would apply.

Mr. Chibnall responded that there was not.

Chairman Foresman inquired as to whether there were any more questions, to which there were none. He then requested motions related to the action to be taken by the Commission regarding the Orders of Rulemaking.

Commissioner Sugg made the following motion:

“I move that the Commission adopt the Orders of Rulemaking for amendments 10 CSR 26-2.062, 10 CSR 26-2.078, and 10 CSR 26-2.082 published in the July 15, 2013, Missouri Register and that the Department proceed to file the Orders with the Joint Committee on Administrative Rules and the Secretary of State.”

Commissioner Frakes seconded the motion.

A vote was taken; all were in favor, none opposed. Motion carried. Orders of Rulemaking were adopted.

4. RULEMAKING UPDATE

Mr. Tim Eiken, Director’s Office, Hazardous Waste Program, addressed the Commission and advised that the rule reviews to identify HB1251 requirements would be presented to the Commission later in the agenda, but there were two other issues being looked at that may be of interest that he would be presenting at this time.

Mr. Eiken noted that the first issue was the trailer storage of batteries that had been raised by Exide. He advised that a rule change was probably not the best option, that the Department was currently coordinating with Exide, and that several ideas had been presented for consideration. He went on to state that after discussions with Exide they had moved away from the idea of a rule change and were looking at a permit modification that would enable them to make changes to their facility to be in compliance with current rules. He noted that the Department had received a draft from Exide, and it was under review.

Mr. Eiken then advised the Commission that another issue that was being reviewed, although it was not formal, was in regard to secondary containment at underground storage tank sites. He noted that the EPA was currently working on a rule and that the Department was waiting to see how it read. He advised the Commission that the Department was keeping stakeholders updated and that staff, along with the Department of Agriculture and Petroleum Storage Tank Insurance Fund (PSTIF), is scheduled to visit four cities: Cape Girardeau, Springfield, Kansas City and St. Louis, to make presentations and discuss different changes being considered to the tank operational rules. He went on to state that he believed there would be federal language by the Spring and once it was out, the Department would start the rulemaking process to develop our corresponding rule.

Mr. Eiken ended his presentation, and inquired if the Commission had any questions.

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

5. HOUSE BILL 1251 – RULE REVIEWS – REPORT TO THE COMMISSION

Mr. Tim Eiken, Director's Office, Hazardous Waste Program, again addressed the Commission and noted that the 2012 legislative session saw the passage of HB 1251, referred to as the "No Stricter Than" legislation; which, with a few exceptions, stated that the Hazardous Waste Management Commission shall not promulgate rules stricter than the EPA in certain specified areas. This legislation was signed in to law on July 10, 2012, and became effective on August 28, 2012. In addition to limits on future rules being no stricter than EPA, the legislation required the Department to also identify existing hazardous waste rules that are inconsistent and file amendments to repeal or amend.

He advised the Commission that through the Hazardous Waste Forum, the Department has been reviewing affected rules in Chapters 3, 4, 5, and 7. He noted that the Hazardous Waste Forum includes Department staff and hazardous waste stakeholders, consisting of environmental health and safety staff from laboratories, universities, permitted facilities, hazardous waste transporters and retailers.

Mr. Eiken noted that the Department had prepared a document that identifies those regulations in the affected chapters that are inconsistent with the statute and consequently must be repealed or amended and that this document is included in a report that also contains information about the review process and the documents prepared as part of the process. He noted that this document will form the basis of a future rulemaking to address the rules that are inconsistent and that the rulemaking will also include other revisions determined to be necessary. He noted that once we have completed development of the rule language, the next time it would be presented to the Commission, would be at the Finding of Necessity stage, sometime early next year. He also noted that an Regulatory Impact Report (RIR) would be needed.

Chairman Foresman inquired if the Department was required to publish the report of the Department's review at the end of the year.

David J. Lamb, Director, Hazardous Waste Program, responded and advised that the legislation required the Department to "identify" the changes needed by that time, and that the Department had chosen to document the findings in a report so that there would be an historical record.

Chairman Foresman inquired as to whether the Department had considered publishing the report in the state register to solicit for a broader range of stakeholders to comment.

Mr. Lamb responded that the Program had not done that because it was early in the process, and the rulemaking process would provide for multiple opportunities for public comment.

Chairman Foresman noted that he would like to see it made available to a broader group, that the Department has completed identifying changes, but other input should be solicited.

Mr. Lamb responded that the Department would look in to doing this, and that it had been posted to the Commission webpage. Mr. Lamb also noted that notices could go out to the Listserv to reach a broader group.

Vice Chairman Sugg inquired as to the number of man hours the Department had dedicated to this effort to date.

Mr. Lamb responded that this information had not been tracked directly but that a considerable number of hours and staff had been dedicated to this process. He noted that there had been numerous internal meetings, and meetings with stakeholders. He advised that the majority of Mr. Eiken's time had been dedicated to this effort, in addition to several of the Section Chiefs being involved in the review.

Commissioner Frakes inquired as to whether this was a "living document" and whether there would be additions.

Mr. Eiken responded that the report was final but that the rule text would continue to be worked on. He noted that the Department would be adding and building on it and that it would include the federal rule updates. He advised the Commission that the report contained what the Department considered to be the final determination in all but the grey shaded areas of the rule text.

Commissioner Frakes inquired as to whether those would be resolved by the first of next year, roughly.

Mr. Eiken responded affirmatively.

Chairman Foresman inquired in to the shaded areas of the report.

Mr. Eiken reviewed the shaded text, noting that it had been used in the document to identify those provisions that still require further evaluation by the Hazardous Waste Program to determine if and to what extent they may be inconsistent with Section 260.373.1 RSMo. He then noted that the Department was close to completing its review, and concluded his presentation.

Chairman Foresman then inquired if there were any further questions from the Commission, to which there were none.

Mr. Lamb advised the Commission that he had received a request from Mr. Kevin Perry, with REGFORM, to address the Commission at this time.

Chairman Foresman acknowledged Mr. Perry's request and Mr. Perry addressed the Commission.

Mr. Perry greeted the Commission and identified himself, and noted what REGFORM represented. He advised the Commission that he felt this was an auspicious occasion, where the Department had made its determination of which state rules on the books were inconsistent with the federal regulations. He noted that he believed that the Commission's review of these rules would easily be fifty times harder than the Tanks RBCA efforts that the Commission had just completed. But, he noted, he disagreed with what the Department had determined to be inconsistent.

Mr. Perry advised the Commission that he had provided the Department with an eight page comment letter on the color coded document that the Department had released. He stated that he had provided 94 different places that he had commented on; and that when he had made a side by side comparison of the report that was released, with his comments, that they were different. Mr. Perry noted that twenty one of his comments had been adopted (rough numbers), there were fifty areas where there were no changes, and that fifteen of his comments were regarding the grey shaded areas.

Mr. Perry stated that he disagreed with what was in the report and asked the Commission "As you contemplate today, don't you want to know why these rules are not excluded?" Mr. Perry went on to state that he had made thirty-two comments where "owner/operator" is mentioned and that this is not used in the federal regulations. He advised that it had been deleted in some places but not in others and that he was curious to know why some were in and some were out.

Mr. Perry then offered the Commissioners a copy of his comment letter and volunteered to sit down and go through it and speculate as to why some things are in and some are out.

Chairman Foresman noted that a final review would be required to meet the December 2015, date, which would include corrections and a statement on why things are in or out.

Chairman Foresman also requested a copy of Mr. Perry's comment letter, and copies were provided to the Commissioners and the Commission staff.

Vice-Chairman Sugg stated that he appreciated that this was an arduous task and noted that it could be argued that this process will decrease state autonomy and increase federal influence and administrative costs. He went on to state that he understood the need for careful review, but from his perspective, just because the wording is different did not mean that it is stricter than or in conflict with the federal regulations.

Mr. Perry advised that in Missouri we are not allowed to speculate on legislative intent but that he believed the legislators were trying to make things simpler and that when we can go with the federal wording we should.

Ms. Leanne Tippet Mosby, Director, Division of Environmental Quality, addressed the Commission and requested to respond to Mr. Perry's remarks. Ms. Tippet Mosby noted the amount of hard work that Department staff has put in to this effort, and as the deadline for this review was not until December, the Department was actually ahead of schedule. She noted that identifying the rules that are inconsistent is just the preliminary part of the process; and that the next phase will be the formal rulemaking, where the issues Mr. Perry had raised would be addressed.

She advised the Commission that when Mr. Perry's comment letter was received, Department staff sat down and discussed these comments with REGFORM, and she committed to continuing those discussions. Ms. Tippet Mosby also provided the Commission with some case law related to the "no stricter than" provisions, as it applied to the Air Conservation Law.

Ms. Tippet Mosby then went on to state that the Department will continue to work through the Hazardous Waste Forum on these issues and that she believed all parties would be able to come to an agreement on most if not all of these areas. She noted that the Department's review of the rules went beyond whether they simply could be retained, but also tried to determine if they were still necessary.

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.

Chairman Foresman called for a break at 11:20 a.m.

Chairman Foresman called the meeting back to order at 11:32 a.m.

6. 2012 ANNUAL DRYCLEANING ENVIRONMENTAL RESPONSE TRUST (DERT) FUND REPORT

Mr. Scott Huckstep, Brownfields/Voluntary Cleanup Section, addressed the Commission and provided them with an overview of the current DERT fund report. He noted the updated numbers from the previous year's report and advised that as of September 30th, the fund had \$816,258 remaining in it. Mr. Huckstep advised the Commission that Notice of Violation letters had been issued to operators that were not in compliance and that assistance efforts were ongoing to bring these sites in to compliance. Mr. Huckstep also advised the Commission that there was an August 28, 2017, sunset date on the fund at this time.

Mr. Huckstep invited the Commission to ask any questions they may have regarding the report, to which there were none.

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. RISK BASED TARGET LEVELS

Mr. Tim Chibnall, Director's Office, addressed the Commission and explained that the Department was reviewing the risk-based target levels (RBTLs) in the departmental RBCA guidance. He noted that the HWP administers two RBCA processes and that this review pertained to the non-tanks RBCA, which is referred to as the "Departmental" RBCA guidance. He advised that the RBTLs had not been updated since 2006 and, since that time, there had been changes to the information that the RBTLs are based on. He noted that, most importantly, toxicological data had changed for a number of contaminants and EPA had made changes in the methodology used to calculate target levels. He indicated that, in addition, there had been other less substantive changes that affect calculation of the RBTLs.

Mr. Chibnall stated that the Department had been working on a revision of the the RBTLs for the Tanks RBCA guidance for some time but had only recently started on the Departmental RBTLs. He noted that uncertainty associated with updating the Tanks RBCA guidance and RBTLs led the Department to separate the Tanks RBCA efforts from the Departmental RBTL update efforts. Mr. Chibnall advised that the Department is working with the Department of Health and Senior Services (DHSS) to revise the RBTLs. He explained that the effort to revise the RBTLs is not in response to any external mandate and consequently there are no hard deadlines for completion of the project. He noted that the Department had established goals and timelines for the project and that the Department anticipates releasing draft revised RBTLs by the end of December 2013. Mr. Chibnall said that the Department is working to get the word out about the revision of the RBTLs and that a public comment period would be convened – outside the framework of a rulemaking effort – to allow interested parties an opportunity to comment on the revised RBTLs and the revision process. He went on to state that the Department would determine if a public meeting is warranted for the effort based on input received during the public comment period. Mr. Chibnall advised the Commission that information regarding this effort will be posted to the web on a page dedicated to the project, and that the project would be documented on that page as it develops.

Chairman Foresman inquired as to whether the EPA had recently updated their levels.

Mr. Chibnall responded that the EPA routinely updates their Regional Screening Levels as information becomes available.

Chairman Foresman inquired as to why the state would not just adopt the updated EPA numbers rather than going through a process to develop their own.

Mr. Chibnall advised that Missouri's RBTLs are not exactly the same as EPA's Regional Screening Levels (RSLs) because they are calculated based on different carcinogenic risk levels, with EPA's cancer risk level at one in one million Individual Excess Lifetime Cancer Risk (IELCR), whereas Missouri's is one in 100,000. He noted that for chemicals that are not carcinogenic, the Missouri RBTLs will be the same as the EPA RSLs. He went on to explain that with the MRBCA process, site-specific target levels (SSTLs) may be developed at Tier 2

using site-specific information and that the SSTLs may and are expected to be different from the Tier 1 RBTLs.

Chairman Foresman inquired if the differences (1 in 1 million vs 1 in 100,000) were subject to the “no stricter than” provisions.

Mr. Chibnall advised that they were not because the rule that specifies the risk levels is not subject to HB 1251 and that the only group using MRBCA was the Brownfield Voluntary Cleanup Program (BVCP) and the BVCP rules are not subject to HB1251 regulation.

Commissioner Bracker inquired as to what the impact would be to previously issued Letters of Completion for the Brownfield Voluntary Cleanup Program and other programs.

Mr. Chibnall responded that the Department will develop provisions to allow those with active sites to either continue to apply the RBTLs that were in-place when their project began or switch to the revised RBTLs and to explain when the revised RBTLs must be used. As for the sites previously issued a Letter of Completion; the Department is currently evaluating options regarding how to proceed with respect to those sites.

Commissioner Bracker inquired as to the difference between national levels and regional levels.

Mr. Chibnall requested clarification on the question.

Commissioner Bracker asked if regional site specific background levels are taken in to consideration.

Mr. Chibnall responded that they are not taken into consideration in developing the RBTLs but that they are considered on a site-specific basis.

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

8. QUARTERLY REPORT

Dee Goss, Public Information Officer, Hazardous Waste Program, addressed the Commission and gave brief highlights from the April through June 2013 Quarterly Report. Ms. Goss reviewed a couple of the key articles and highlights provided.

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

9. LEGAL UPDATE

Ms. Kara Valentine, Commission Counsel, addressed the Commission and advised that she would defer her legal update for the next meeting. She noted that there were recent settlements and information on cleanups and she hoped to have pictures and other information for them at the next meeting.

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

10. PUBLIC INQUIRIES OR ISSUES

Mr. David J. Lamb, Director, Hazardous Waste Program, advised the Commission that he had received a request from Mr. Kevin Perry, from REGFORM, to speak at this time.

Mr. Perry addressed the Commission and advised them that he wanted to make them aware that the REGFORM Environmental Conference was soon, and he extended an invitation to the Commissioners to attend. He provided the Commission with an agenda and a registration code for attendance.

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

10. OTHER BUSINESS

Mr. David J. Lamb, Director, Hazardous Waste Program, advised the Commission that the Department was working on a response to the comment letter that Mr. Perry had provided them earlier and that it should be sent out soon. He advised the Commission that the letter would be posted to the website when the response was sent out.

Mr. Lamb then advised the Commission he had updated information on the recent Walmart settlement, which the Commission had posed questions about at a previous meeting. He noted that the Department had reviewed the settlement, and determined that using the funds for future pesticide collection events, may be a more appropriate choice. He stated that Department had coordinated this issue with the Department of Justice and the EPA, and that they had concurred that the funds could be used for pesticide collection events as long as they were FIFRA related. He went on to note that additional events were being planned, although they would be a little different than the previous events, as they would be initiated by the Department now, and not Walmart. He advised the Commission that this effort was in the early planning stage and that Dennis Hansen had been brought back as a 1000 hour employee to assist with this project; and that the events would probably not be set up until early next year.

Mr. Lamb went on to provide a short overview of recent Tanks activities, noting that the Tanks Section had recently been awarded \$175,000 in special project funds by the EPA,

which would be used to assist with drinking water impacts at sites where drinking water was affected, and there were no responsible parties as they were abandoned sites. He also advised that they had received an additional \$125,000 grant that would help plug the hole in our baseline funding from EPA, which had been reduced due to federal budget issues. He noted that this would be used for additional document reviews, either funding staff or contractor efforts.

He then noted that the Department was currently coordinating with PSTIF to analyze the backlog of UST sites, to try to initiate a process and develop a report to help identify the sites and plan for a path forward. He advised that he believed this coordinated process would produce a plan that could be provided as a response to the EPA.

Mr. Lamb then advised that the last item he wished to share with the Commission regarded the Departments efforts developing the Hazardous Waste On-Line Mapper. He reminded the Commission that Chris Cady had provided them with a demonstration and presentation at a previous meeting and advised that an updated version of this mapper was under development and was near release. He stated that efforts had been ongoing to update data and add sites; that it was a Google based platform and information from Superfund, Federal Facilities and RCRA Corrective Action sites had been added; providing additional information other than just BVCP sites. He advised that the process was going through user testing and that the Department anticipated releasing it in the next couple of months. He noted that it was a very useful tool and had been a huge effort for staff.

Commissioner Frakes inquired, concerning the grants that Mr. Lamb had discussed, as to the prospect of the funding being continued, or multi-year.

Mr. Lamb responded that these two grants were a competitive based award, beyond the baseline funding received from EPA each year. He stated that this funding was awarded on a competitive basis and that we would continue to apply for these monies when available, but that there were no guarantees that additional funding would be available.

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

11. FUTURE MEETINGS

Chairman Foresman noted that the next meeting was scheduled for December 19, 2013.

Vice Chairman Sugg made the motion to adjourn, which was seconded by Commissioner Frakes.

The meeting was adjourned at 12:08 p.m..

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Respectfully Submitted,

Debra D. Dobson, Commission Assistant

APPROVED

Michael Foresman, Chairman

Date

Missouri Hazardous Waste Management Commission Meeting

December 19, 2013

Agenda Item # 3

Rulemaking Update

Recommended Action:

Information Only

Presented by:

Tim Eiken, Rules Coordinator, HWP

Missouri Hazardous Waste Management Commission Meeting

December 19, 2013

Agenda Item # 4

HB1251 Implementation Update

Issue:

At the last Commission meeting, the Department presented information on efforts to implement HB 1251, referred to as the “No Stricter Than” legislation; which, with a few exceptions, stated that the Hazardous Waste Management Commission shall not promulgate rules stricter than the EPA in certain specified areas. This legislation was signed in to law on July 10, 2012, and became effective on August 28, 2012. In addition to limits on future rules being no stricter than EPA, the legislation required the Department to also identify existing hazardous waste rules that are inconsistent and file amendments to repeal or amend.

The Department prepared and presented to the Commission a document that identifies those regulations in the affected chapters determined to be inconsistent with the statute and that consequently must be repealed or amended.

After the report was presented to the Commission at the October meeting, Commissioners requested that the Department make an effort to solicit additional input on the contents of the report beyond the input gathered from participants in the Hazardous Waste Forum. In response to this request, since the October meeting, the department has implemented the following outreach efforts:

- Posted the report on the Hazardous Waste Forum webpage and the Hazardous Waste Program’s Rules in Development page.
- Prepared a notice about the availability of the report and distributed the notice to selected subscribers to the Department’s .gov email subscription service.
- Prepared a notice for publication in the Missouri Register’s “Rules Under Consideration” section that discusses the availability of the report and the upcoming rulemaking effort for the hazardous waste rules in the Code of State Regulations.

At the December meeting of the Hazardous Waste Forum, the Department hopes to finalize the color coded rule text document, which was used as the basis for the report to the Commission on rules determined to be inconsistent. Once that document is finalized, stakeholders and Department staff can move on to the next task, which will be to develop the proposed rule text for all of the affected rules.

Recommended Action:

Information Only

Presented by:

Tim Eiken, Rules Coordinator, HWP

Missouri Hazardous Waste Management Commission Meeting

December 19, 2013

Agenda Item # 5

Tanks Update

Issue:

Tanks Update

Information:

- Abandoned Tank Project
- Route 66 Project
- LUST Cleanup Grant
- Impacted Private Drinking Water Well Grant
- Tanks/EPA Brownfields Projects
- Additional Tanks Remediation Efforts

Recommended Action:

Information only.

Presented by:

Ken Koon – Chief, Tanks Section HWP

Missouri Hazardous Waste Management Commission Meeting

December 19, 2013

Agenda Item # 6

Tanks Financial Responsibility – Quarterly Update

Issue:

This is an update of the Hazardous Waste Program's (HWP's) progress on sites without a financial responsibility (FR) mechanism to cleanup releases from underground storage tanks (USTs) utilizing the expedited enforcement procedure.

Information:

- Missouri law and regulation requires tank owners and operators to maintain FR 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 USTs.
- Recognizing the importance of this, the Hazardous Waste Management Commission approved the usage of an expedited enforcement procedure to address these facilities in August 2008.
- At that time, of the 3,374 facilities required to have financial responsibility, 184 facilities lacked coverage. A 95% compliance rate.
- As of November 20, 2013, of the 3,167 facilities required to have financial responsibility, only 39 are currently without verified coverage. This equates to a 99% compliance rate.
- The expedited enforcement process is a valuable tool, allowing the Compliance and Enforcement Section (CES) to keep pace with the tasks and responsibilities of ensuring compliance with FR.
- As of November 20, 2013, 17 of those sites have been referred to the Attorney General's Office for legal action and 28 of those 39 have submitted applications to the Petroleum Storage Tank Insurance Fund and are pending approval for coverage. Staff is currently in the process of issuing letters and Notices of Violations, working to resolve the violation.

Recommended Action:

Information Only

Presented by:

Mike Martin, Chief, UST Compliance and Technology Unit, CES, HWP

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Agenda Item # 7

Solvent Contaminated Wipes Rule

Issue:

The Environmental Protection Agency (EPA) recently published new rules providing exclusions for solvent contaminated wipes. These include a conditional exclusion from the definition of solid waste for reusable wipes and a conditional exemption from the definition of hazardous waste for solvent contaminated wipes sent for disposal. A brief overview of the regulations, the difference in these and our current approaches, and some considerations for facilities which may be affected are provided in this presentation.

Information:

- On July 31, 2013, the EPA published a final rule that modifies its RCRA hazardous waste regulations for solvent-contaminated wipes. (78 FR 46448) 40 CFR 261.4. The rule becomes effective on January 31, 2014. Specifically, the rule includes:
 - A conditional exclusion from the definition of solid waste for solvent-contaminated wipes sent for cleaning (“reusable wipes”) – 40 CFR 261.4(a)(26)
 - A conditional exclusion from the definition of hazardous waste for solvent-contaminated wipes sent for disposal (“disposable wipes”) – 40 CFR 261.4(b)(18)
- The purpose of the final rule is to provide a consistent regulatory framework that is appropriate to the level of risk posed by solvent-contaminated wipes in a way that maintains protection of human health and the environment, while reducing overall compliance costs for industry. EPA has estimated a national cost savings of \$21.7 to \$27.8 million/year.
- Because the rule excludes solvent-contaminated wipes from RCRA hazardous waste regulation, the rule is considered less stringent than the base federal program. Thus, authorized states have the option of whether or not to adopt the exclusions into their regulations. Missouri’s tentative plan is to adopt this rule with the current rulemaking package.
- The rule will supersede our current guidance for solvent contaminated wipes. While the exclusion for wipes sent for disposal is less stringent than our current regulation, the exclusions for laundered wipes will add requirements to our current guidance.
- It may not be practical for every facility to use the exclusions rather than manage their wipes as hazardous waste. Deciding whether it will benefit the individual facility to utilize this exclusion will require careful consideration of the overall processes and management practices of the facility.

Recommended Action:

Information only

Presented by:

Nicole Eby, Chief, Hazardous Waste Enforcement Unit, Compliance and Enforcement Section

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Agenda Item # 8

Permit Section Update

Issue:

Hazardous Waste Permits Section Staffing and Activity Update

Information:

Presentation to be made to the Commission, which includes an overview of current HWP Permits Section staffing, regulatory responsibilities, streamlining efforts, initiatives and challenges.

Recommended Action:

Information only

Presented by:

Richard Nussbaum, Chief, Permits Section, HWP

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Agenda Item # 9

Missouri Hazardous Substance Site Locator

Issue:

The Hazardous Waste Program's new online map is a one stop resource that allows users to conduct a web-based search for hazardous substance investigations and cleanups within a specific community or area.

Information:

In 2011, the Brownfield/Voluntary Cleanup Program developed a pilot Long Term Stewardship Mapper. The Hazardous Waste Program worked with the Information Technology Services Division to develop an improved, expanded map that includes Superfund, Federal Facilities, Resource Conservation and Recovery Act (RCRA) Corrective Action, and Brownfields/Voluntary Cleanup Program investigation and cleanup sites. This new map website was launched on December 2, 2013, and features an interactive map viewer with individual site summaries for every site, and links to important documents from Department files. It also includes downloadable data layers that local governments or utilities can download and use in their own planning efforts.

Until now almost all this information was only available by reviewing Department paper files and county property records. But, we know that many property uses that put people at risk do not involve chain-of-title searches, such as construction and utility work, and this website will allow property occupants, construction and utility workers, and potential purchasers an increased awareness and understanding of activity and use limitations designed to ensure their safety at our risk-based cleanup sites.

Developing the map and preparing information about cleanups for the new map represented a substantial effort for Hazardous Waste Program staff in 2013. Thousands of paper files were converted to electronic format, and site information from three Department information systems was updated and linked. The Department's goal in making site information easily accessible to the public is to provide a transparent, consistent information resource that helps ensure property is used safely in Missouri. This map represents the first time the Department has used the Google mapping platform, and is part of an overall effort to use technology to improve service to Missourians, in this case by improving the visibility of environmental information to the public to protect public health. The Mapper may be viewed at www.dnr.mo.gov/molts/gov.

Recommended Action:

Information only

Presented by:

Hannah Humphrey, Long Term Stewardship Unit Chief, Brownfields Voluntary Cleanup Section

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Agenda Item # 10

Legal Update

Issue:

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

Information:

Information Only

Presented by:

Kara Valentine, Commission Counsel

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Agenda Item # 11

Public Inquiries or Issues

Recommended Action:

Information Only

Presented by:

David J. Lamb, Director, HWP

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Agenda Item # 12

Other Business

Recommended Action:

Information Only

Presented by:

David J. Lamb, Director, HWP

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Agenda Item # 13

Future Meetings

Information:

Meeting Dates:

Date	Time	Location
Thursday, February 20, 2014	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, April 17, 2014	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, June 19, 2014	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, August 21, 2014	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, October 16, 2014	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, December 18, 2014	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101

Recommended Action:

Information Only