

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
October 16, 2014; 10:00 A.M.
1730 E. Elm Street
Roaring River Conference Room
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 videoed and will be available on the Commission's web page.

COMMISSIONERS PRESENT IN PERSON

Chairman Deron Sugg
Commissioner Mark Jordan
Commissioner Michael Foresman

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

COMMISSIONERS PRESENT BY PHONE

Vice Chairman Charles Adams
Commissioner Elizabeth Aull
Commissioner James Frakes – **joined the meeting at 10:13 a.m.

Chairman Sugg called the General Session to order at approximately 10:02 a.m.

1. PLEDGE OF ALLEGIANCE

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

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

***Commissioner Frakes joined the meeting by phone at 10:13 a.m.*

2. APPROVAL OF MINUTES

- Commissioner Aull made the motion to approve the General Session minutes from the August 21, 2014, meeting. Commissioner Foresman seconded the motion.

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

3. RULEMAKING UPDATE

Mr. Tim Eiken, Director's Office, Hazardous Waste Program (HWP), addressed the Commission and noted that he would be providing a brief update on a couple of rulemakings the Program was pursuing. He advised that the first rulemaking he would be discussing was the "No Stricter Than" rule, which encompassed a series of changes to the hazardous waste rules, and that the Program was waiting on approval to publish the Regulatory Impact Report. He noted that it was still undergoing the internal review process. He also stated that the rulemaking was still within the statutory timeframes of a December 2015 deadline, and that we were keeping an eye on the timeline.

Mr. Eiken advised that the second item he wished to provide information on was in regard to Underground Storage Tanks (UST's), specifically the federal rule regarding the operation of UST's. He noted that the EPA had proposed changes to the federal rule in 2011, and that the final language for the proposed rule was sent to the office of Management and Budget for a 90 day review, with a projected publication date of December 2014. Mr. Eiken went on to state that the HWP was waiting to see what the final language of the federal rule would be as Missouri's language would follow the Federal rule. He noted that the state rule language would be developed after we had seen the final federal language.

The last item that Mr. Eiken covered with the Commission was operator training. He noted that the rule for operator training was proposed by the Petroleum Storage Tank Insurance Fund (PSTIF). He advised that the rule language was published September 2, 2014, and the public comment period would close on October 17, 2014. He finished by noting that the final adoption was scheduled for the December 3, 2014, PSTIF board meeting.

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.

4. E-WASTE REPORT

** Commissioner Frakes joined the meeting by phone at 10:13 a.m.

Mr. Tony Pierce, Compliance and Enforcement Section, HWP, provided the Commission with a PowerPoint presentation and a copy of the March 2014 Annual Electronics Manufacturing Recycling Report. Mr. Pierce summarized the information provided in the report, providing the history of the E-Scrap Management Law and what the law covered and provided for. He went on to review how reporting had changed since 2010, and gave an overview of the number of manufacturers and brands that are now included in the report. A comparison of Missouri's program vs surrounding states was provided, along with a projection of future reporting.

An opportunity was provided for the Commissioners to ask questions, with the following being posed:

- How can we determine how many pounds were being consumed, and if we cannot determine that, then how do we know what the percentage is that is being recycled?
 - Mr. Pierce responded that nationally it is reported that approximately 20 percent of electronics are being recycled, with Missouri reporting at about eight percent. This equated out to approximately .3 pounds per person being recovered.
- Does this include only those electronics that are being returned to the manufacturer for recycling?
 - Mr. Pierce advised that these numbers were from the direct reporting by the manufacturers; but, that not all recyclers report to the manufacturers, as Missouri does not require this. This indicates that the total recycled could be higher than what has been reported.
- Would this include numbers from recycling centers?
 - Mr. Pierce responded that some report and some don't. He advised that there was the additional problem of "double dipping" as some manufacturers take any brand and report those numbers, and then they pass that equipment off to a recycler who also reports the poundage. Mr. Pierce went on to advise that Missouri is relying on poundage to develop recycling data; but it was not a good move on our part. He advised that as technology advances, the devices weigh less and less. Total pounds will go down, while total unit numbers will increase dramatically. He noted that several states were going to a "per unit" reporting system. He also noted that the number of manufacturers would also be going down as many are consolidating, but that brand names will increase as they branch out.

Mr. Pierce noted that there were also a large number of CRTs that had been out there for a while, as they are very hard to recycle. He noted that Missouri has the Buick plant, which uses one to two percent CRT glass, mixed with their lead processing materials. According to Buick, they produce about 600-700 tons of lead daily. He noted that they use the CRT glass in their slag. He also advised that there was a company in Illinois that was using CRT glass at landfills. He did note that the last manufacturer of CRTs, which is located in India, was winding down production and was anticipated to close within the next five years.

- What measures is the Department taking to promote the program, and who is actually responsible for financing this?
 - Mr. Pierce noted that the Department has two web pages dedicated to this issue. He noted that e-Cycle Missouri is a voluntary program with 40 recyclers registered. He advised that they advertise for us. Mr. Pierce also advised that Missouri does not require that manufacturers pay back recyclers. He noted that we did not have any oversight or rules in place to deal with this.
- Is e-waste brought back to the place of purchase?
 - Mr. Pierce responded that different manufacturers have different programs and processes in place. He noted that the bulk of the recovery occurred during specific collection events.

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

5. COMMISSION OPERATING POLICIES UPDATE

Mr. Tim Eiken, Director's Office, Hazardous Waste Program, addressed the Commission and noted that in December 2012 the Commission had updated their Operating Policies and had voted to review/update them every two years. As the two year mark was nearing, he advised that the HWP had made an initial review and were proposing several changes/deletions to the existing policies, and provided the Commissioners with a PowerPoint presentation that outlined the reasoning for the suggested edits/deletions.

Mr. Eiken noted that general clerical and grammatical changes/corrections were made throughout the proposed document, in addition to clarifications made regarding issues that had come up during the previous two years. These issues included proxy votes, Commissioner training and making language consistent with operating policies of other Commissions across the Department. Mr. Eiken also noted that the Department's legal staff had also reviewed these policies and had made some suggested language changes throughout to clarify the duties of the Commission and staff.

Mr. Eiken also noted that the proposed policy had the appendices deleted, as they were out of date or were no longer appropriate for the operating policy document. He advised that the appendix regarding the Regulatory Impact Report (RIR) had been put in the document when the RIR process was new to the Commission, and was now a matter of routine; therefore, it was not necessary. He also noted that the appendix regarding Commissioner Training was included as a standard in all the Department commission's operating policies, when the Department had anticipated putting together a standard training program. That training program was never developed, making it obsolete.

A redline strikethrough and a clean copy of the proposed changes were provided to the Commission with a request for any suggestions they had to be forwarded to the Commission Secretary for consideration at the December meeting.

Chairman Sugg suggested language that would limit presentations exceeding 15 minutes, to ensure all participants had an opportunity to speak.

Commissioner Foresman made a motion to review the document as presented and have the Commission review any suggestions made before the December meeting, when a draft document would be provided for them to vote on. The motion was seconded by Commissioner Adams.

A vote was taken, all were in favor, none opposed, motion carried.

Commissioner Jordan posed an additional question regarding changes proposed to the third bullet under "Roles and Responsibilities." He asked if the wording suggested that the Program

Director was responsible to the Commission. Mr. Eiken responded that the Department's General Counsel had reviewed the wording and had suggested adding that the Program Director was responsible to the Department Director and the Commission. This would be a dual responsibility.

Commissioner Jordan then inquired as to whether the wording would have to align with other statutory documents, other than just the Commission's operating policies. Mr. Eiken responded that the suggested wording made it more consistent with other statutory language.

No other questions were posed by the Commission.

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission and introduced the next presenter. Mr. Lamb announced that the next presentation would be made by Mr. Scott Huckstep, who had recently been promoted to the position of Section Chief of the Brownfields/Voluntary Cleanup Section, following the retirement of Jim Belcher.

6. DRYCLEANING ENVIRONMENTAL RESPONSE TRUST (DERT) ANNUAL REPORT

Mr. Scott Huckstep, Chief, Brownfields/Voluntary Cleanup Section, provided the Commission with a PowerPoint presentation on the DERT Annual Report. Mr. Huckstep provided an update on the DERT fund, provided background on the fund and noted that it was an industry led effort that established the fund. Mr. Huckstep noted that 12 other states had similar funds, and that Missouri's funding came from two surcharges on dry cleaning solvents; one for amount the amount used and one for the amount sold. Mr. Huckstep went on to note that this report was provided to the legislature every year.

Mr. Huckstep also provided information on how the fund operated and explained that as of September 2012, no new applications had been accepted in to the program as the fund was facing insolvency. He advised that revenues were down due to decreased usage of the solvents that that the surcharges were assessed on, and that future projections showed a continued decrease in solvent usage. He noted that in 2011, a bill was introduced that extended the sunset date of the fund from August 2012, to August 2017, although Department management provided testimony that the fund could reach insolvency before the extended sunset date. He noted that any changes to the funding mechanism for the fund would have to be initiated by industry.

The Commission posed a couple questions regarding the total number of cleanups that have been completed through the fund, which were responded to by Mr. Huckstep.

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

7. 2014 PESTICIDE COLLECTION EVENTS

Ms. Nicole Eby, Compliance and Enforcement Section, provided the Commission with a PowerPoint presentation summarizing the 2014 pesticide collection events, which had been

organized by the Department. She noted that these events resulted from of a plea agreement settlement with Walmart, for violations of the Federal Insecticide, Fungicide and Rodenticide Act in Missouri. Ms. Eby advised that these collection events were free to the public and to private farmers and were limited to Missouri residents only.

She noted that four pesticide collection events had been organized and conducted in 2014 and provided information on the accomplishments, the locations, what was collected and an overview of the results. Photographs were provided of collection events, in addition to lessons learned and goals for 2015.

An opportunity was provided to the Commissioners to pose questions, which included how this was different from pesticide collection events the Department organized in 2012 and 2013. Ms. Eby explained that those earlier events were funded through a Supplemental Environmental Project with Walmart, brought about by plea agreements from other hazardous waste law violations, and had been overseen by Walmart. She noted that this current round of events were a result of monies received from plea agreements from separate violations and legal proceedings, and the outreach/cleanup programs were being developed and overseen by the Department.

An inquiry was also made as to how many other events the Department believed they could do, with Ms. Eby explaining that there was already one event in the preliminary planning stage for 2015, tentatively scheduled to take place in the northeast area of the state, with a total of five anticipated. She noted that it would be best to wait for spring weather to try to ensure the best turnout.

Commissioner Adams congratulated Ms. Eby on the efforts and success that the events were having, noting that most household consumers do not know what to do with these items when they are no longer needed, and do not know how to dispose of them correctly. He inquired as to what, if anything, the Program or Department is doing to secure permanent funding for future events and if it could involve dealer distribution chains or schools. Ms. Eby responded that there was an estimated five years' worth of funding available, and that current efforts would be to think about ways to fund a permanent program, and to gather information to determine if a permanent program is appropriate and necessary.

David J. Lamb, Director, Hazardous Waste Program, addressed the Commission on the inquiry and advised these events have been focused on households and farmers. He noted that businesses or schools are regulated entities who are currently required to manage their waste appropriately. He noted that efforts are ongoing to provide education and outreach, stating that staff was working with school groups and providing educational information. He noted that part of the Department's pesticide collection effort is to develop these kinds of educational materials to help regulated industries know how to safely manage their pesticides. He indicated that the Department would likely not have funding to help regulated entities with their disposal costs, as efforts to assist them it would be more in the areas of outreach and education.

Commissioner Adams commented that unless a community is educated there is more potential for problems, especially at commercial and school levels, where disposal is almost cost prohibitive. Mr. Lamb responded that Department had provided assistance through other programs, such as the school lab cleanup program, and recognizes that there is a need for those kind of programs as well as educational efforts.

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. TANKS UPDATE

Mr. Ken Koon, Chief, Tanks Section, HWP, addressed the Commission and provided a PowerPoint presentation overviewing the work the Tanks Section is involved in. Mr. Koon began with current information on financial responsibility mechanisms in place at the tanks sites, breaking down how many are covered by PSTIF insurance, private insurance, how many are exempt – mostly government agencies, and how many are unknown and are being investigated.

Mr. Koon also provided information on how many new tanks have been installed during the last state fiscal year, how many tanks certificates had been issued and how many current remediation projects staff were working on. Mr. Koon also provided information that credit cards were now being accepted for payment of tank fees. He noted that the process does still require tank owners to provide their information to DNR, who will enter it in to a credit card website, with a fee being collected by the credit card processing company. He noted that efforts were being made towards the tank owners being able to directly process their payments through the credit card company, without DNR staff having to be in the middle.

An overview of the amount of mail had been received and responded to by Tanks staff was provided to the Commissioners, along with information on current efforts to reduce this turnaround time. Mr. Koon also provided an overview of releases, how many were cleaned up by the responsible parties, how many were cleaned up by the state and how many were still ongoing. He noted that this information is provided to the U.S. Environmental Protection Agency in a “Sources and Causes” report each December, which outlines the number of releases that have been identified, how the releases were identified and the determination of how the release was caused.

Mr. Koon also provided information to the Commission on grants monies received and the special projects that these monies had funded. Photographs were provided of several special project sites where staff had investigated and provided the oversight for cleanup. Mr. Koon noted that these monies were received as part of a competitive bid process, with applications for new grants being made as monies become available, and were not guaranteed ongoing funding.

Several questions were posed by the Commissioners:

- An inquiry was made as to when the budget cycle begins for the grant monies received.
 - Mr. Koon responded that sometimes the answer to that is complicated. He noted that the federal fiscal year begins each September 1, while the state fiscal year begins on July 1. He advised that even with that difference, we could start spending when the grant monies were received, as it could fit into either budget year.
- As noted in one of the slides, regarding the “Sources and Causes” report, when are the totals pulled from?
 - Mr. Koon responded that the numbers were from a 12 month period beginning October 1, 2013, and ending September 30, 2014.
- Of the remediation projects noted in the presentation, are these new leaks, or are they legacy leaks that are just being found?
 - Mr. Koon responded that the majority of them are legacy leaks, that when they are found, the release is weathered enough that he was confident that the leaks were historical in nature. He noted that staff were not seeing many new operational leaks.
- Is the proportion improving over time?
 - Mr. Koon advised that the report that the numbers were pulled from, had only been generated for the last 7 years, and appeared to be fairly constant. He noted that no information was maintained prior to that.
- Of the 67 new installations noted for the last fiscal year, how many of these are replacements, or are they new facilities?
 - Mr. Koon responded that 30-40 facilities drop out each year, mostly “mom and pop” facilities, and the larger truck stop type or corporate facilities are replacing them. He noted that when these facilities are closed, sometimes multiple tanks are found during the closure, and only one compartmentalized one may be put back in its place.

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. QUARTERLY REPORT

Ms. Dee Goss, Public Information Officer, provided the Commission with an overview of the April through June 2014 Quarterly Report. Ms. Goss noted the types of information that were covered under the topics in the issue and provided the Commission with the opportunity to pose any questions on the material provided.

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

10. LEGAL UPDATE

Ms. Brook McCarrick, Office of the Attorney General, addressed the Commission and advised that she was standing in for Ms. Kara Valentine; but, did not have any information to

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present to the Commission at this time. She noted that Ms. Valentine would provide any updates 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.

11. PUBLIC INQUIRIES

Mr. David J. Lamb, Director, Hazardous Waste Program, advised the Commission that he had not received any requests from the public, to address the Commission.

12. OTHER BUSINESS

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission, and advised that he had a couple of things he wished to share with the Commission. He began by noting that the first thing was in regards to the Department's efforts to engage stakeholders on fees. He stated that the target date to hold the first stakeholders meeting was November 18th. He went on to advise that staff were working to refine the stakeholders list and that the announcement would be out in the next couple of days, as the date had just been selected.

Mr. Lamb then reminded the Commissioners that they now had the authority to set fees by statute but that it would require stakeholder input and an agreement by the stakeholders in the process. He advised that plans were being made to hold a series of meetings over the next several months and that it was anticipated that the Program would be coming to the Commission in April 2015, hopefully with a recommendation from the stakeholders group that would allow us to begin the rulemaking process. He advised that the rule must be filed by December 2015, to go through the process and be in place by 2017. He stated that there was a lot of work on the front end and a lot of planning to make this happen by 2017. Mr. Lamb also advised that this would take up a large amount of our focus over the next several months. The Commissioners were advised that they were interested parties in this process and were invited to attend these stakeholder meetings, but that information and updates would be provided to them throughout the process, in addition to updates during regularly scheduled meetings.

The second item that Mr. Lamb addresses regarded the upcoming Governor's Conference on Natural Resources and Commissioner Training, scheduled to begin on November 11th. He noted that the Commissioner Training was scheduled for the 11th, followed by the Governor's Conference on the 12th and 13th. Mr. Lamb asked the Commissioners to make sure they RSVP'd for the training and/or the conference by this coming Friday. He noted that the agenda will cover several items of interest, from the appointment process, the Department's budget, the Department's Strategic Plan and Vision, Sunshine Law issues and rulemaking

Mr. Lamb encouraged the Commissioners to attend if they could, although he advised that it was not mandatory. He noted that the Governor's Conference may also be of interest to them, and that a copy of the agenda had been provided. He also advised that information had been sent to the Commissioners on how to seek reimbursement for costs incurred by attending the

conference and asked that they contact him or Debra Dobson, Commission Assistant, to get registered at the discounted rate. Mr. Lamb also asked that the Commissioners contact either he or Debra and let them know if they were or were not anticipating attending the training and/or the conference.

The last item that Mr. Lamb addressed was to advise the Commission on the upcoming REGFORM Hazardous Waste Seminar, scheduled for November 4th, in Columbia, MO. He noted that it was a good event, and a good opportunity for outreach. Mr. Lamb noted that it was generally well attended, with 250-300 participants last year. He advised that a number of Program staff would be presenting at the seminar this year, on topics such as fees, risk based target levels, the new tank regulations, natural resource damages and other environmental issues of interest. He noted that this conference provided an opportunity for staff and stakeholders to share information, and that the Commissioners were welcome to attend.

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

13. FUTURE MEETINGS

The next meeting of the Hazardous Waste Management Commission will be held on Thursday, December 18, 2014, at the 1730 E. Elm Street Conference Center.

Commissioner Foresman made the motion to adjourn the meeting at 11:55 a.m. The motion was seconded by Commissioner Aull.

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

Respectfully Submitted,


Debra D. Dobson, Commission Assistant

APPROVED


Deron Sugg, Chairman


Date