



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

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**

June 18, 2015

**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, April 16, 2015 – Commissioners

Action Items

3. Public Hearing – “No Stricter Than” Rulemaking – Tim Eiken, Director's Office, HWP

Information Only:

4. Rulemaking Update – Tim Eiken, Director’s Office, HWP
5. Underground Storage Tanks Operational Rules Update – Heather Peters, Compliance and Enforcement, HWP
6. E-Reporting Update – David Green, Budget and Planning Section, HWP
7. Legal Update – Kara Valentine, Office of the Attorney General
8. Public Inquiries or Issues – David J. Lamb, Director, HWP
9. Other Business – David J. Lamb, Director, HWP
10. Future Meetings
Thursday, August 20, 2015 – 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: June 18, 2015

ROLL CALL ROSTER

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

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 1**

Pledge of Allegiance

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 2**

Approval of Minutes

Issue:

Commission to review the General Session minutes from the April 16, 2015, Hazardous Waste Management Commission meeting.

Recommended Action:

Commission to approve the General Session minutes from the April 16, 2015, Hazardous Waste Management Commission meeting.

GENERAL

SESSION

MEETING

MINUTES

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
April 16, 2015; 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

Commissioner Charles (Eddie) Adams
Commissioner Michael Foresman
Commissioner Mark Jordan

The phone line was opened at approximately 9:41 a.m. for Commissioners calling in to today's meeting.

COMMISSIONERS PRESENT BY PHONE

Commissioner Elizabeth Aull
Commissioner Jamie Frakes
Commissioner Andrew Bracker

1. PLEDGE OF ALLEGIANCE

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

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

2. APPROVAL OF MINUTES

Mr. David J. Lamb, Director, HWP advised the Commission that a request had been received from the Petroleum Storage Tank Insurance Fund, for a minor change to the Minutes. Copies of these changes were provided to the Commissioners, along with a red-line strikethrough outlining the suggested changes. Mr. Lamb advised that the suggested change made a more detailed clarification to a portion of Mr. Ken Koon's presentation on the Tanks Special Projects agenda item and that the Department did not have issue making the change.

Vice-Chairman Adams requested a motion be made to accept the Minutes, with the suggested changes.

- Commissioner Frakes made the motion to approve the General Session minutes from the December 19, 2014, meeting, with the suggested change. Commissioner Foresman seconded the motion.

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

3. ELECTION OF OFFICERS

Vice-Chairman Adams advised the Commissioners that, per the Commissioners Operating Policies, it was the appropriate time for the Commission to hold their annual election of officers.

Vice Chairman Adams began with the position of Vice-Chairman and inquired as to whether anyone wished to nominate someone for the position. Commissioner Foresman made the motion to nominate Elizabeth Aull to the position of Vice-Chairman. Commissioner Frakes seconded the motion. No other nominations were received.

A vote was taken; all participating Commissioners voted "aye," none were opposed. The motion carried.

Vice-Chairman Adams then inquired as to whether anyone wished to nominate someone for the position of Chairman. Vice-Chairman Aull made the motion to nominate Charles Adams to the position of Chairman. Commissioner Foresman seconded the motion. No other nominations were received.

A vote was taken; all participating Commissioners voted "aye," none were opposed. The motion carried.

4. RULEMAKING UPDATE

Mr. Tim Eiken, Directors Office, addressed the Commission and began with noting that the "No Stricter Than" rulemaking, which had been under internal review for some time, had recently received approval to proceed. He noted that no comments had been received during the Interagency Review and that the Regulatory Impact Report had been posted on February 20th, and that the comment period would be ending on April 21st. He then advised that two comments had been received to date, one from Boeing and one from REGFORM. He noted that there had been some changes to the rule text to address those requested changes. He noted that the comments regarded satellite accumulation and requested an option for compliance with Missouri's rule or the federal rule. He noted that those who opted for the Missouri rule must submit notification to that effect and that language was added to address this issue. He advised that the rule package was filed the day before with the Joint Committee on Administrative Rules and was anticipated to be published on May 15th, with the public hearing being held at the June 18th regular meeting of the Hazardous Waste Management Commission.

Mr. Eiken went on to note that the second rulemaking effort being worked on was in regards to the fee proposal, and would be presented to the Commission by Mr. David Lamb in a subsequent agenda item. He stated that, if approved by the Commission, the HWP would proceed with the rulemaking, and provided a tentative schedule for that rule package, contingent upon that approval. He advised the Commissioners that there would be public hearings associated with the next two regularly scheduled HWMC meetings; in June and in August.

Mr. Eiken then noted that the third item he wished to inform the Commission on was the current status of the Underground Storage Tank Operational Rule. He noted that the Department was still waiting on the final verbiage of the federal rule as it was still under review at the federal level and that Missouri would follow with rule language that would parallel that verbiage.

Mr. Eiken went on to state that there were two other federal rules that had moved closer to being published in the Federal Register. He noted that the first one was regarding pharmaceutical waste, and that this one had been of interest to the Department for several years. He advised that the EPA was working on this rule and he believed that it would center on medical facilities. He noted that the second rule regarded hazardous waste generator improvements; and, although the Department was not clear on what it said, it seemed to include some of the same items that our current generator rule proposal included. But, he advised, we would have to wait and see how it was presented when it was released. Mr. Eiken stated that both of these rules were a ways off from being released, as they were still in development and then would have at least a 90 day review by OMB.

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. LEGISLATIVE UPDATE

Mr. David J. Lamb, Director, HWP, addressed the Commission and began by thanking Commissioner Adams and Aull for taking on the responsibility of Chair and Vice-Chair. He then noted that in their packets he had provided a list of current legislation that the Department was watching. He advised that some had not moved recently but could pop up at any time. He advised that from that list, only one bill could potentially change the Hazardous Waste Law.

Mr. Lamb went on to provide highlights from some of the bills listed, beginning with HB-6, the Budget. He noted that it contained of \$11.16 million dollars in appropriations for the Program, with 134.42 FTE. He stated that it also included appropriations to the Department of \$779,118 and 16.2 FTE from the Petroleum Storage Tank Insurance Fund (PSTIF) for operations, along with PSD appropriations of \$6.16 million for Natural Resource Damages (NRD). He noted that this was similar to last year's budget. He did advise that there was one new decision item included in the budget, for the state of Missouri's Superfund obligation. The amount included in the Governor's Recommendation for this was \$939,176; but, this item was currently a conference item in the legislature.

Mr. Lamb noted that there was one other conference item, which regarded all out of state travel by state employees, and if passed, would transfer funding and authorization for this travel from the individual departments, to the Office of Administration. He noted that the Department was waiting to see how this was resolved.

Mr. Lamb then addressed SB225, regarding the permit appeals process. He noted that the bill would change the Hazardous Waste Law in two places related to appeal procedures, to make it consistent with general language included in Sections 621.250 and 640.013 RSMo. He advised that this would just clarify the existing process currently in place. He noted that this language had been added to SB446, which is more of an Omnibus Bill, and had moved out of the Senate, to the House, the previous day. He noted that this bill contains other issues of interest to the Department regarding oil and gas, waters of the state, and other issues in the news recently.

Mr. Lamb moved on to HB1102, which modifies provisions related to liability for releases from petroleum storage tanks due to storage of incompatible fuels. It stated that owners or operators of tanks may not be denied insurance benefits solely because the claim comes from the release of a regulated petroleum substance deemed incompatible with the petroleum storage tank.

Mr. Lamb then mentioned SCR5, regarding the lead industry, and noted that it contained language that establishes the Missouri Lead Industry Employment, Economic Development and Environmental Remediation Task Force. He noted that it would require the Task Force to consider prompt environmental settlements, develop ways to promote and develop a clean lead industry, provide for clean lead industry legislative proposals, and be cognizant of the economic potential of implementing clean lead industry policies. He noted that this was similar to SCR15 from the 2013 legislative session, and SCR 19 from the 2014 legislative session.

Mr. Lamb finished by noting that the Department was watching HB1134, which would provide that the state pay the state rate on health care benefits for employees who are eligible and choose to retire between March and November of this year, and would cover those costs for five years or until the employee was eligible for Medicaid. He advised that the bill would also limit the ability of agencies to fill the positions of those who take advantage of the incentive.

Commissioner Jordan posed a question regarding HB1102, noting that the language insures and allows applications for PSTIF coverage for fuels that spill and are incompatible. He noted that the language would fix the issue from PSTIF's side but inquired if it would fix it from the Department's viewpoint. Mr. Lamb discussed the Department's compatibility requirements, noting that most of the compatibility requirements were based on E85 levels of ethanol, but that other blends would have to be looked at.

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

Mr. Lamb advised the Commission that a conference call would be scheduled for June 11th to ask the Commission for approval to initiate the rulemaking process.

6. HAZARDOUS WASTE PROGRAM FEE PROPOSAL

Mr. David J. Lamb, Director, HWP, addressed the Commission, advising them that he wished to provide them an update on the current generator fee structure proposal. Mr. Lamb began by noting that at the most recent meeting of the Hazardous Waste Fee Stakeholder Workgroup held on March 13th, participants developed a final recommendation for a change to the fee structure that Department staff will present to the Commission. He noted that following the February stakeholder meeting that the stakeholder recommendation that had been developed at that time, had been posted to the Hazardous Waste Fee Stakeholder Workgroup webpage for review. He advised that the February proposal would establish a tiered registration system for hazardous waste generators, with the registration fee based on the generator's status. He noted that the proposal was posted on Feb 24th, and that a notice was sent out to stakeholders on our Listserves, requesting responses by March 11th. Mr. Lamb reported that one alternative fee proposal was received from REGFORM, and that the Department had received one comment about the need to look at multiple generator fees being assessed to facilities that are nearby.

Mr. Lamb also noted that during the March meeting, the Department had presented the February Tiered Proposal as well as the alternative proposal received. He advised that participants discussed the LQG exemption for nearby facilities and agreed to work on that concept in the rule. Mr. Lamb also advised that the alternative proposal was favored by the group, but some wanted to make additional changes.

Mr. Lamb provided an overview of the tiered registration proposal, noting that currently, all generators pay the same \$100 annual registration fee regardless of their status, and that the proposed system would establish a fee of \$150 for conditionally-exempt and small quantity generators, and \$500 for large quantity generators. Mr. Lamb explained that at the request of stakeholders, this proposal will also include an exemption from paying multiple large quantity generator fees where the facilities under the same ownership are in close proximity to each other and meet other criteria that would allow the department to essentially inspect the facilities as one location.

He advised that in addition to increasing the registration fee for hazardous waste generators, the proposal would also change the structure of the in-state waste fee, as the current rate for the in-state waste fee is \$5 per ton, with a minimum fee of \$150 (for all generators who generate 30 tons of hazardous waste or less) and a maximum of \$52,000. Under this proposal, he noted, the minimum tonnage fee would increase to \$200 and would be assessed to the first ton of waste generated, with each additional ton being assessed an additional fee of \$6.10, up to the maximum fee amount of \$57,000.

He reported that the proposal would also change the current rate of the land disposal fee, as the current fee rate for the land disposal fee is \$25 per ton. He noted that under the proposal,

this fee would change to a rate of \$29.50 per ton, and that the structure would also be changed to assess the full amount of the fee for any partial ton rather than prorating the fee.

Mr. Lamb noted that the proposed increases to the generator registration fee, the in-state tonnage fee, and the land disposal fee were estimated to generate additional revenue in the amount of \$502,165, annually to the Hazardous Waste Fund.

Mr. Lamb advised that during the March meeting some smaller generator concerns included the idea that their fees would go up too much. He noted that other small generators, such as university representatives, thought the fee was reasonable. Comments were made that some thought higher fees may lead to companies with tight budgets making bad decisions in regard to management of wastes. Others thought potential noncompliance should not be a consideration when determining the fee structure. He stated that a tiered minimum fee approach was discussed to try to find a way to lower the cost to smaller generators, but a solution that could satisfy other stakeholders concerns with the structure could not be reached.

Mr. Lamb then reported that larger generators had expressed some concerns as several thought that the \$7.00 per ton In-state Fee was too high, and needed to be lowered. Fee payers paying the maximum thought the In-state Fee cap was going up too much. Others thought that cap payers needed to pay a comparable increase. Some thought the Land Disposal Fee was too high, and those paying the Out-of-State Fee did not think any change to that fee was appropriate, due to the small number of facilities that pay the fee, the fact that they pay multiple program fees, and the competitive disadvantage it would create.

Mr. Lamb finished up with a timeline on the fee proposal, noting that at the current April 2015, meeting, the proposed fee structure was being presented to the Hazardous Waste Management Commission. He followed with seeking the Commissions formal approval in the May/June timeframe and holding the public hearing at the August 2015 meeting. Mr. Lamb also advised that the Commission would then be asked for approval to file the orders of rulemaking at their October 2015, meeting.

Mr. Lamb opened the floor for questions from the Commission. Commissioner Foresman inquired as to whether the Out of State Generator Fee only applied to cement kilns? Mr. Lamb responded that it applied to any treatment, storage or disposal facility, which takes waste from out of state. Mr. Lamb noted that there were about 10 facilities that pay this fee. Commissioner Foresman then inquired as to what other states were charging. Mr. Lamb responded that different states have different fee structures and it was difficult to compare in that way. It was noted that the same facilities pay the highest fees for In State Generator Fees also. Commissioner Foresman commented that these facilities run this as a business and receive economic benefit from the receipt of these materials.

Commissioner Jordan asked Mr. Lamb to define "consensus." Mr. Lamb responded that the Department had worked with those stakeholders who had participated in the process to come to a proposal that balanced concerns. He noted that, in the end, the group was comfortable with the proposal and did not voice any concerns with advancing the proposal to the HWMC.

Commissioner Jordan inquired as to the LQG exemption? Mr. Lamb responded by explaining the purpose of the exception, and the types of facilities it was expected to apply to. He also advised that the exemption would only apply to a very small number of generators.

No other questions were posed by the Commission. This was provided as information for consideration by the Commission, who will vote on the proposal at a subsequent meeting.

7. TANKS BACKLOG PLAN

Mr. Ken Koon, Chief, Tanks Section, addressed the Commission and provided a PowerPoint presentation, noting that in June 2013, after an analysis of data on remediation projects, the Department and the PSTIF initiated discussions on how to accelerate the pace of remediation projects. These discussions culminated in a plan that was signed by both organizations in March 2014, which contained specific strategies and actions. Mr. Koon went on to advise that these strategies included improving processes on stalled cleanups with Responsible Parties (RP's), providing training, enhancing communication to resolve disagreements, abandoned site identification, and reduction of paperwork.

With regards to improving processes, Mr. Koon noted that they had identified 52 sites that were PSTIF eligible and the deductible had been met where DNR and PSTIF needed to move the RP to action. He advised that the solution proposed was to have one DNR staff dedicated to work on idle sites. He noted that the result was that 30 sites have restarted, 2 sites have received "No Further Action" (NFA) letters, 12 have been classified as abandoned, and that 10 sites are still stalled. Mr. Koon went on to advise that an additional issue noted was that at some of the sites the RP has failed to meet established deadlines. He noted that the solution proposed was to improve follow up when RP fails to respond (new tracking system), and the result of those actions were that DNR reviewed 487 idle sites, they sent out over 500 status letters, they have increased *Letters of Warning* and *Notices of Violation*. He also advised that further results include that the number of documents received has increased but document review times have decreased, the number of NFA's have increased, DNR/PSTIF communication has increased, and site visits and meetings have increased. Mr. Koon further explained that there had been changes to the PSTIF claims rule, which had improved the claim process. These changes were approved by the PSTIF Board in December, were published in February 28, 2015, Code of State Regulations, and had become effective on March 30, 2015.

Mr. Koon went on to note that with regards to training, the Plan clarified and streamlined requirements of Tanks Risk Based Corrective Action (RBCA), as the Consultants need guidance on RBCA and the remediation process. He advised that it also clarified which documents require a professional seal. He noted that DNR and PSTIF had sponsored joint webinars, staff had provided links to other training sources, and had also provided training at the Missouri Waste Control Coalition Conference (MWCC). Mr. Koon stated that he believed these efforts should lead to better work plans, reports, and improved processes, furthering the benefits of their investment in training. These joint training efforts included webinars on ITRC's LNAPL (Free Product), a joint webinar on Bos 200 equipment, a joint webinar on how to prepare a risk assessment, and a joint webinar on horizontal remediation wells. He

went on to state that staff had presented information on remediation technologies at a MWCC workshop, and that DNR had also informed consultants of several additional trainings in 2014 and 2015.

The next strategy discussed was how to enhance communication for dispute resolution. Mr. Koon noted that many sites sat idle while DNR, PSTIF and the Consultants disagree on the requirements of RBCA. He advised that the plan suggested a tiered dispute resolution process. He noted that with this process there have been five sites resolved and 15 action plans are at the Tanks Section Chief and PSTIF Claims Manager review level; and, that three projects have been elevated to the highest tier with one of those having been resolved.

The next strategy that was discussed was in regards to abandoned sites. He noted that the issue was in identifying these abandoned sites; and once identified, there was a review of those files, a responsible party search, and a determination on the ability to pay, etc. He advised that he has identified 184 abandoned sites, with no identifiable responsible parties. He noted that with regard to cleanup costs for these sites, they were currently looking at possible carryover funds from the EPA, some of the sites were eligible for PSTIF reimbursement, some may be appropriate for property redevelopment for federal Brownfields funding and that some have already been cleaned up by the property owners.

Mr. Koon advised that the final strategy was efforts to reduce paperwork. PSTIF has identified six claims at five projects and negotiations are underway at four of these projects. He noted that additionally, PSTIF has bid multi-stage work on four projects.

Mr. Koon noted that future efforts included continuing to focus on timelines and moving sites forward, continuing to offer trainings to consultants, continuing the dispute resolution process, continuing the increased communication and cooperation efforts, and continuing efforts to seek opportunities to address abandoned sites. He stated that efforts were also anticipated to review 27 PSTIF "pre-existing remedial claims." (i.e., those sites where a release was confirmed they were insured, the tanks are still in use, and PSTIF benefits will be lost if coverage lapses.)

Commissioner Jordan inquired "Is 27 the whole universe of remedial claims or is that just certain ones you have identified?" Mr. Koon responded "That's just certain ones we have identified that will lose benefits if they don't keep current insurance." Mr. Jordan asked, "So, that is all the remedial claims then?" Mr. Koon responded that as of the week prior, there were 1076 remediation claims, with these 27 being in a special category. Mr. Jordan went on to note that the information covered a lot of work having been done. He advised that he believed that the net difference between those receiving a No Further Action, and the new claims, should be approximately 23; and, after subtracting that from the backlog, that there were "880-something remaining." He inquired as to whether Mr. Koon believed that this would accelerate the process, making these cleanups attainable within 5 years, or 10 years. Mr. Koon responded that the current RBCA process was lengthy, but that he believed this process would show benefits in the future. He noted that generally it took the first two years to study the movement, and that although he would like the process to be less than five years, he believed it would be approximately 5 years.

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

11:18 a.m. Chairman Adams called for a short break.

11:32 a.m. Chairman Adams called the meeting back in session.

8. E-REPORTING UPDATE

Mr. David Green, Budget & Planning Section, addressed the Commission and provided an update on the development of the Department's E-Reporting system. He advised that he would be providing information on the goals, accessibility, features, and a timeline on when the Department expects to have the system available. Mr. Green provided a PowerPoint presentation, noting that 260.373.1(3)(c) RSMo– the “No Stricter Than” law was the driving force for these changes. He advised that the law requires rules be promulgated to allow large quantity generators reporting electronically to file their reports on an annual rather than quarterly basis, and that said rules are part of the “No Stricter Than” rule package, and were to be in place for the July 1, 2015, to June 30, 2016, reporting year.

He advised that the goals of the new rules were to create a web based system and allow for all generators and facilities utilizing the system to report annually. This would prevent the submittal of incomplete and/or invalid data to the Department, and reduce the amount of time spent completing and processing the reports. He went on to note that the E-Reporting system being built will be accessed through the Department's Citizen Application Gateway.

Mr. Green stated that the proposed process would provide the ability to create and submit reports in two ways: Direct entry on the web based form, or by importing an Excel file; and that the data from the imported file would go through the same data checks as the direct entry reports.

Mr. Green also noted that using this system will allow generators currently required to file quarterly reports to change to annual reporting, and that the option to file on a quarterly basis is still available. He stated that the reports are “signed” by the use of a secure PIN that has been set up by the user; one who has been designated as a “certifier” in the system, and that a facility may also designate people other than the certifier to be a “preparer” or just a “viewer.”

Mr. Green advised that with regard to the timeline for the new process, the programming was under current development. He noted that Test Scripts for testers were being written, and that testing by volunteer testers outside the Department will begin in mid-May. He also advised that testers were chosen so that each type of report submittal will be tested by an outside tester, and that successful testing will result in the system going live about July 1.

Commissioner Jordan inquired as to the current process of paper forms, and advised if Department staff then had to enter the information in to the system when received. Mr. Green replied that they did, but that Excel formatted entries could be transferred in to the system. Commissioner Jordan also inquired as to why small quantity generators could not use this

process. Mr. Green advised that they could, and that they were already reporting on an annual 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.

9. TANKS FINANCIAL RESPONSIBILITY

Mr. Michael Martin, Compliance and Enforcement Section, HWP, addressed the Commission and provided an update on the Department's process for maintaining financial responsibility (FR) at tank sites.

Mr. Martin noted that Missouri law and regulation requires that tank owners and operators 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. And, that 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. He also advised that in 2008, of the 3,374 facilities required to have financial responsibility, 184 facilities lacked coverage, which equated to a 95% compliance rate.

Mr. Martin stated that as of the March 17, 2015, reporting cycle, of the 3,225 facilities currently required to provide financial responsibility, only 34 are without verified coverage, equating to a 99% compliance rate. He also noted that as of April 8, 2015, the number of sites that had no verified coverage had dropped to 28, noting that it remained at an average of approximately 30.

He also advised that as of March 17, 2015, five of those sites have been referred to the Attorney General's Office for legal action, 21 have been issued Notices of Violation and 16 of those 34 have submitted applications to the Petroleum Storage Tank Insurance Fund and are pending approval for coverage.

No 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

Larry Archer, Public Information Officer, DEQ, presented the Commission with highlights from the October through December 2014 Quarterly Report.

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 and noted that it had been fairly quiet on the hazardous waste front. She advised that there was one new administrative appeal that had

been filed with the Administrative Hearing Commission (AHC), filed by Donovan Auto Body. She noted that they had received violations following hazardous waste inspections, but were back in compliance at this time. She noted that penalties had been assessed by the Department for an amount of \$22,800, and that the business could pay, appeal or try to resolve. She noted that an appeal had been filed with the AHC and that a recommendation was anticipated on May 11th. She advised that it would then go to the HWMC within 120 days, and that the Commission would then have 60 days to make a decision.

Ms. Valentine then noted that MODOT had settled on a violation of the Clean Water Act for stormwater runoff on two different highways. She noted that the violation was for erosion runoff and that they had been ordered to pay \$750,000 to the US Treasury.

Ms. Valentine went on to advise that the Missouri Supreme Court had made a decision on a complaint regarding CAFO. She advised that residents in Boone County had sued Cargill, claiming "loss of use and enjoyment of property". She noted that in 2011 the Missouri legislature had passed the "right to farm" law, which banned non-economic damaged in this type of suit. She advised that it only allowed for reduce market value which would have to be documented. She advised that the landowners had challenged the law, which was upheld by the Supreme Court.

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

12. PUBLIC INQUIRIES

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

13. OTHER BUSINESS

Mr. David J. Lamb, Director, HWP, addressed the Commission, and advised the Commission that the pesticide collection efforts were ramping up for this year with the first event scheduled for May 30, 2015, in Portageville. He advised that staff were hoping for a good event, to kick-off the year, noting that the University had been a great partner in helping to get the word out about the event.

Mr. Lamb then thanked the Commissioners for getting their Personal Financial Disclosure forms turned in to the Ethics Commission, prior to their May 1 deadline.

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.

14. FUTURE MEETINGS

The next regular meeting of the Hazardous Waste Management Commission will be held on Thursday, June 18, 2015, at the 1730 E. Elm Street Conference Center.

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Chairman Adams adjourned the meeting at 1:47 a.m.

Respectfully Submitted,

Debra D. Dobson, Commission Assistant

APPROVED

Charles Adams, Chairman

Date

Hazardous Waste Management Commission Meeting

August 15, 2013

Agenda Item #3

Public Hearing – “No Stricter Than” Rulemaking

Issue:

House Bill 1251 (HB1251), passed by the 2012 General Assembly and codified in Section 260.373 RSMo, required the Department to identify existing rules in Chapters 3, 4, 5 and 7 of 10 CSR 25 that need to be amended to be consistent with the requirements of Section 260.373. That section limits the authority of the Missouri Hazardous Waste Management Commission to adopt rules that are stricter than, or that establish requirements sooner than, the corresponding federal regulations in certain subject areas. The Department completed the identification and review process for these chapters and developed the proposed rule amendments that will implement the necessary changes.

These amendments were filed with the Joint Committee on Administrative Rules on April 15, 2015, and were published in the Missouri Register on May 15, 2015. This public hearing is the next step in the process, and coincides with a public comment period. The Department will accept comments through June 25, 2015.

Upon the closing of the public comment period the Department will respond to comments received and prepare an order to the rulemaking, incorporating and/or changing the rule text accordingly. The final rule text will be brought before the Commission, requesting approval to file, at the August 20, 2015, meeting.

Recommended Action:

The Commission to hear testimony on the proposed changes to the hazardous waste rules in Title 10, Division 25 of the Code of State Regulations (10 CSR 25).

- 10 CSR 25-3.260** Definitions, Modifications to Incorporations and Confidential Business Information
- 10 CSR 25-4.261** Methods for Identifying Hazardous Waste
- 10 CSR 25-5.262** Standards Applicable to Generators of Hazardous Waste
- 10 CSR 25-6.263** Standards for Transporters of Hazardous Waste
- 10 CSR 25 7.264** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 10 CSR 25-7.265** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

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- 10 CSR 25-7.266** Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
- 10 CSR 25-7.268** Land Disposal Restrictions
- 10 CSR 25-7.270** Missouri Administered Permit Programs: The Hazardous Waste Permit Program
- 10 CSR 25-8.124** Public Participation
- 10 CSR 25-9.020** Hazardous Waste Resource Recovery Processes
- 10 CSR 25-11.279** Recycled Used Oil Management Standards
- 10 CSR 25-12.010** Fees and Taxes
- 10 CSR 25-13.010** Polychlorinated Biphenyls
- 10 CSR 25-16.273** Standards for Universal Waste Management

Presented by:

Mr. Tim Eiken – Rule Coordinator, HWP

Chairman Adams'

OPENING STATEMENT

“No Stricter Than” Rulemaking

**Hazardous Waste Management Commission Meeting
June 18, 2015**

Opening Statement for the Public Hearing on the proposed amendments to the hazardous waste rules in Title 10, Division 25 of the Code of State Regulations (10 CSR 25).

I hereby call this public hearing to order. A public hearing is not typically a forum for debate of the issues. Rather, the purpose of this hearing is to provide the Department of Natural Resources and the public an opportunity to present testimony on the proposed changes to Chapters 3, 4, 5 and 7 of 10 CSR 25, that need to be amended to be consistent with the requirements of Section 260.373.

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

Written comments will also be accepted at this hearing. Please provide them to the Hazardous Waste Program's Director, David Lamb. Following the conclusion of the hearing, comments may be submitted by mail to the Director of the Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102. Comments submitted by mail must be postmarked on or before the end of the public comment period, on June 25, 2015.

DC 20408. This rule does not incorporate any subsequent amendments or additions.

(C) Owners or operators of secondary lead smelters must operate an SO₂ CEMS as follows:

1. The SO₂ CEMS must be certified by the owner or operator in accordance with 40 CFR 60 Appendix B, Performance Specification 2 and Section 60.13 as is pertinent to SO₂ continuous emission monitors as adopted by reference in 10 CSR 10-6.070.

2. The span of SO₂ continuous emission monitors must be set at an SO₂ concentration of one-fifth percent (0.20%) by volume.

(D) Owners or operators of sources must use fuel sampling and analysis to determine sulfur weight percent, or equivalent, of fuel(s) used to operate fuel emission sources and/or units regulated by this rule in accordance with 10 CSR 10-6.040.

(E) The heating value of the fuel must be determined as specified in 10 CSR 10-6.040. The actual heat input must be determined by multiplying the heating value of the fuel by the amount of fuel burned during the source test period.

(F) Owners or operators of sources may use an alternative test method that provides results at least the same accuracy and precision as the replaced method, and is approved in advance by the staff director, the EPA, and incorporated into the state implementation plan.

AUTHORITY: section 643.050, RSMo Supp. 2013. Original rule filed April 10, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate. Fiscal notes are provided for this proposed rule to document detailed information and assumptions associated with the economic cost estimates.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate. Fiscal notes are provided for this proposed rule to document detailed information and assumptions associated with the economic cost estimates.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rule will begin at 9:00 a.m., June 25, 2015. The public hearing will be held at the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., July 2, 2015. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.

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

PROPOSED AMENDMENT

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

PURPOSE: There are multiple purposes to this amendment. First of all, the incorporation by reference of 40 CFR part 260 will be updated from the July 1, 2010 edition to the July 1, 2013 edition, plus one (1) additional rule promulgated on July 31, 2013. In doing so, all changes to part 260 during this time period will be incorporated into the state rules. Second, the Department of Natural Resources has identified numerous changes in this rule that are required by section

260.373, RSMo. This section requires the department to identify rules that are inconsistent with the limitation on rulemaking authority established in this section and to make the necessary changes to the rule text by December 31, 2015. Finally, other changes to this rule are proposed as part of the routine process of making corrections to the rule, eliminating outdated rule text, and making the rules easier to understand, which will reduce the burden on both the department and the regulated community.

(1) The regulations set forth in 40 CFR part 260, July 1, [2010] 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, **and the changes made at 78 FR 0, July 31, 2013**, are incorporated by reference, except for the changes made at 70 FR 53453, September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, subject to the following additions, modifications, substitutions, or deletions. This rule does not incorporate any subsequent amendments or additions.

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

1. “Director” shall be substituted for “Administrator” or “Regional Administrator” except where those terms are defined in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25. [All applications, approvals, petitions, appeals, or other paperwork associated with the United States Environmental Protection Agency’s “National Environmental Performance Track” shall not be submitted to the director in lieu of the administrator or regional administrator.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. "10 CSR 25-16.273" shall be substituted for any reference to 40 CFR part 273.

18. "Sections 260.350-260.434, RSMo," shall be substituted for "Subtitle C of RCRA Act," or "RCRA," except where those terms are defined in 40 CFR 260.10, incorporated in this rule.

19. "Section 260.380.1(1), RSMo" shall be substituted for "Section 3010 of RCRA."

20. "Section 260.420, RSMo" shall be substituted for "Section 7003 of RCRA."

21. "Waste within the meaning of section 260.360(21), RSMo," shall be substituted for "solid waste within the meaning of section 1004(27) of RCRA." Residual materials specified as wastes under section 260.360(21), RSMo, shall mean any spent materials, sludges, by-products, commercial chemical products, or scrap metal that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

22. "Section 260.360(9), RSMo," shall be substituted for "Section 1004(5) of RCRA."

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

[24. "Owner/operator" shall be substituted for each reference to "owner and operator" and "owner or operator" in the 40 CFR parts incorporated in 10 CSR 25.]

[25.]24. All quantities of solid waste which are defined as hazardous waste pursuant to 10 CSR 25-4 are hazardous waste and are regulated under sections 260.350-260.434, RSMo, and 10 CSR 25. A person shall manage all hazardous waste which is not subject to requirements in 10 CSR 25 in accordance with subsection 260.380.2, RSMo. When a person accumulates one hundred kilograms (100 kg) of nonacute hazardous waste or one kilogram (1 kg) of acutely hazardous waste [or one gram (1 g) of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)], or the aggregate of one hundred kilograms (100 kg) of acute and nonacute hazardous waste, whichever first occurs, that person is subject to the provisions in 10 CSR 25. This provision is in addition to the calendar-month generation provisions in 40 CFR 261.5 which are incorporated by reference and modified in 10 CSR 25-4.261(2)(A).

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

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

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

[(D) 40 CFR part 260 Appendix I is not incorporated in this rule.]

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

(A) Definitions beginning with the letter A.

[1. ASTM means the American Society for Testing and Materials.]

[2.]1. Abandoned or uncontrolled means any property where hazardous waste has been disposed of illegally or where hazardous waste was disposed of prior to regulation under sections 260.350-260.434, RSMo.

[3. Active fault means a fault which, according to substantial geologic evidence, is capable of movement along a fault trace. A fault which, according to historical records, has moved along a fault trace is considered an active fault.]

[4.]2. Attenuation means any physical, chemical, or biological reaction, or a combination of both, transformation occurring in the zone of aeration or zone of saturation that brings about a temporary or permanent decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled.

(C) Definitions beginning with the letter C.

1. CFR means the Code of Federal Regulations.

2. CSR means the Missouri Code of State Regulations.

3. Commission means the Hazardous Waste Management Commission of Missouri created by section 260.365, RSMo.

[4. Compliance procedure means any proceeding instituted under sections 260.350-260.434, RSMo, which seeks to require compliance with, or which is in the nature of an enforcement action or an action to cure a violation of, sections 260.350-260.434, RSMo, or rules adopted under those sections, or permits, licenses, or certifications issued under those sections. A compliance procedure includes, without limitation, an order issued pursuant to section 260.410, RSMo, or any denial or revocation of or notice of intent to revoke a license, permit, or certification pursuant to, or any civil or criminal action filed in the courts of Missouri pursuant to, sections 260.350-260.434, RSMo. A compliance procedure is considered to be pending from the time an order, denial, revocation, or notice of intent to revoke is issued by the director or judicial proceedings begin, until the director notifies the person subject to the compliance procedure in writing that the violation has been corrected or that the procedure has been withdrawn or dismissed.]

(D) Definitions beginning with the letter D.

1. Department means the Missouri Department of Natural Resources.

2. Director means the director of the Missouri Department of Natural Resources.

[3. Displacement means the relative movement of any two (2) sides of a fault measured in any direction.]

[4.]3. DOT means the United States Department of Transportation.

(E) Definitions beginning with the letter E. (Reserved)

[1. Extended reporting period means a declaration or endorsement in a liability insurance policy required by 10 CSR 25-7 which provides an extension of the coverage of the policy to claims otherwise covered by the policy and first made during a specified period immediately following the effective date of cancellation or nonrenewal of the policy. The specified period shall be of at least twelve (12) months duration.]

(F) Definitions beginning with the letter F.

1. Farmer means a person primarily engaged in the production of crops or livestock for agricultural purposes, or both.

[2. Fault means a fracture along which rocks on one (1) side have been displaced with respect to those on the other side.]

(H) Definitions beginning with the letter H.

[1. HSWA means the Hazardous and Solid Waste Amendments of 1984. These amendments were made to the Resource Conservation and Recovery Act by P.L. 98-616, November 8, 1984.]

2. *Hazardous constituent means any chemical compound listed in 40 CFR part 261 Appendix VIII as incorporated in 10 CSR 25-4.261. (This is different than the term hazardous waste constituent as defined in 40 CFR 260.10.)*

[3.]1. Hazardous waste means any waste or combination of wastes as defined by or listed in 10 CSR 25-4, which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a threat to the health of humans or other living organisms.

[4.]2. Hazardous waste transporter means any person or company conducting activities in Missouri which require a hazardous waste transporter license pursuant to 10 CSR 25-6.263. These activities may include, but are not limited to, transportation of hazardous wastes, used oil, and infectious wastes by highway, railway, or waterway.

[5.] *Holocene means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene period to the present, approximately the previous twelve thousand (12,000) years.*

[6.]3. Household hazardous waste means any household waste excluded from regulation as hazardous waste by 40 CFR 261.4(b)(1) but otherwise meets the definition of hazardous waste in paragraph (2)(H)3. of this rule.

(L) Definitions beginning with the letter L. *(Reserved)*

[1.] *Land-based management facility means any hazardous waste landfill, land treatment unit, surface impoundment, or waste pile.*

(O) Definitions beginning with the letter O. *(Reserved)*

[1.] *One hundred (100)-year flood means a flood that has a one percent (1%) chance of recurring in any year or a flood of magnitude equaled or exceeded once in one hundred (100) years on the average over a significantly long period. In any given one hundred (100)-year interval, a flood of that magnitude may or may not occur, or more than one (1) flood of that magnitude may occur.*

2. *One hundred (100)-year floodplain means any land area which is subject to a one percent (1%) or greater chance of flooding in any given year from any source.*

3. *Operating disposal facility means a hazardous waste management facility permitted or seeking a permit for the construction, operation, or both, including receipt of hazardous waste, of surface impoundment, waste pile, land treatment unit, or landfill.*

4. *Owner/operator means owner and operator. For the purposes of performing the activities required by these rules, where not specifically required of the owner, the owner may designate in writing that the operator has the authority to perform the duties of the owner/operator. This designation does not relieve the owner of his/her joint liability that these activities are performed.*

(P) Definitions beginning with the letter P.

[1.] *Post-closure disposal facility means a hazardous waste management facility which has disposed of hazardous waste, and which is required by applicable state and federal laws and regulations to have a permit to conduct post-closure activities, or to perform necessary post-closure activities under an enforceable document, as defined in 40 CFR 270.1(c)(7) and incorporated by reference in 10 CSR 25-7.270(1).]*

[2.]1. Professional engineer or registered engineer means a professional engineer licensed to practice by the Missouri Board of Architects, Professional Engineers and Land Surveyors.

[3.]2. Power unit for the purpose of this regulation is a truck with at least two (2) axles, regardless of licensed vehicle weight or configuration.

[4.] *Preceding year is defined as the period of twelve (12) consecutive months immediately prior to July 1 immediately preceding the commencement of the license year for which license is sought.]*

(R) Definitions beginning with the letter R.

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

[2.] *Regional aquifer means a geologic formation, group of formations or part of a formation that contains sufficient saturated permeable material to yield or be capable of yielding water at a sufficient rate to serve as a practical source of water supply.]*

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

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

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

[6.] *Residual materials means any spent materials, sludges, by-products, commercial chemical products, or scrap metals that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.]*

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

[Editor's Note: Paragraph (2)(R)7. will become effective December 31, 1993.]

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

(S) Definitions beginning with the letter S.

1. Site, for purposes of 10 CSR 25-10, means the smallest geographic boundary which contains known chemical contamination. A buffer zone may be included within the area.

[2.] *Standby trust fund means a trust fund which must be established by the owner or operator who obtains a surety bond or provides other security as specified in these rules.]*

[3.]2. Substantial change means any change in use of a site which may result in a spread of contamination over additional portions of a site or off-site, an increase in human exposure to hazardous materials, an increase in adverse environmental impacts, or a situation making potential remedial actions to correct problems at the site more difficult to undertake or complete.

(T) Definitions beginning with the letter T.

1. Training means formal instruction which supplements an employee's existing job knowledge and is designed to protect human health and the environment through increased awareness and improved job proficiency.

2. Transporter; see hazardous waste transporter.

[3. True vapor pressure means the pressure exerted when a solid or liquid is in equilibrium with its own vapor. The vapor pressure is a function of the substance and of the temperature.

4. Twenty-four (24)-hour, twenty-five (25)-year storm means a storm of twenty-four (24)-hour duration for which the frequency of occurrence is once in twenty-five (25) years.]

(U) Definitions beginning with the letter U.

1. Universal waste means any of the hazardous wastes that are defined under the universal waste requirements of 10 CSR 25-16.273(2)(A).

2. Used oil.

A. The definition of used oil at 40 CFR 260.10 is amended to include, but not be limited to, petroleum-derived and synthetic oils which have been spilled into the environment or used for any of the following:

(I) Lubrication/cutting oil;

(II) Heat transfer;

(III) Hydraulic power; or

(IV) Insulation in dielectric transformers.

[B. The definition of used oil at 40 CFR 260.10 is amended to exclude used petroleum-derived or synthetic oils which have been used as solvents. (Note: Used ethylene glycol is not regulated as used oil under 10 CSR 25.)

C. Except for used oil that meets the used oil specifications found in 40 CFR 279.11, any amount of used oil that exhibits a hazardous characteristic and is released into the environment is a hazardous waste and shall be managed in compliance with the requirements of 10 CSR 25, Chapters 3-9 and 13. Any exclusions from the definition of solid waste or hazardous waste will apply.

3. USGS means United States Geological Survey.]

[4.]3. [U.S.] United States importer means a United States-based person who is in corporate good standing with the U.S. state in which they are registered to conduct business and who will be assuming all generator responsibilities and liabilities specified in sections 260.350-260.430, RSMo, for wastes which the [U.S.] United States importer has arranged to be imported from a foreign country.

(V) Definitions beginning with the letter V.

[1. Vapor recovery system means a system capable of collecting vapors and discharged gases and a vapor processing system capable of processing those vapors and gases so as to control emission of contaminants to the atmosphere. Emission not retained by vapor recovery systems, except for emissions regulated in 10 CSR 25, are regulated by rules adopted by the Missouri Air Conservation Commission, 10 CSR 10.]

[2.]1. Vehicle, for the purpose of this regulation, refers to a power unit.

(W) Definitions beginning with the letter W.

[1. Washout means the fluvial transport of hazardous waste from a hazardous waste management unit as a result of flooding.]

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

AUTHORITY: sections 260.370, RSMo Supp. 2010, and section] and 260.395, RSMo [2000] Supp. 2013. Original rule filed

Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

10 CSR 25-4.261 Methods for Identifying Hazardous Waste. The commission is amending sections (1) and (2) of the rule.

PURPOSE: There are multiple purposes to this amendment. First of all, the incorporation by reference of 40 CFR part 261 will be updated from the July 1, 2010 edition to the July 1, 2013 edition, plus one (1) additional rule promulgated on July 28, 2013. In doing so, all changes to part 260 during this time period will be incorporated into the state rules. Second, the Department of Natural Resources has identified numerous changes in this rule that are required by section 260.373, RSMo. This section requires the department to identify rules that are inconsistent with the limitation on rulemaking authority established in this section and to make the necessary changes to the rule text by December 31, 2015. Finally, other changes to this rule are proposed as part of the routine process of making corrections to the rule, eliminating outdated rule text, and making the rules easier to understand, which will reduce the burden on both the department and the regulated community.

(1) The regulations set forth in 40 CFR part 261, July 1, [2010] 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, and the changes made at 78 FR 0, July 31, 2013, are incorporated by reference, except for the changes made at 55 FR 50450, December 6, 1990, 56 FR 27332, June 13, 1991, 60 FR 7366, February 7, 1995, 63 FR 33823, June 19, 1998, 70 FR 53453, September 8, 2005, 73 FR 64667 to 73 FR 64788, October 30, 2008, and 73 FR 77954, December 19, 2008. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms

set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

[Publisher's Note: The effective date for rules of mixed radioactive and hazardous wastes in Missouri is March 12, 1993.]

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

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

[1. Material that is stored or accumulated in surface impoundments or waste piles is inherently waste-like as provided in 40 CFR 261.2(d) incorporated in this rule, and is a solid waste, regardless of whether the material is recycled;

2. A solid waste, as defined in 40 CFR 261.2, as incorporated in this rule, is a hazardous waste if it is a mixture of solid waste and one (1) or more hazardous wastes listed in 40 CFR part 261 subpart D, as incorporated in this rule, and has not been excluded from 40 CFR 261.3(a)(2), as incorporated in this rule, under 40 CFR 260.20 and 260.22, as incorporated in 10 CSR 25-3.260. However, mixtures of solid wastes and hazardous wastes listed in 40 CFR part 261 subpart D, as incorporated in this rule, are not hazardous wastes (except by application of 40 CFR part 261.3(a)(2)(i) or (ii), as incorporated in this rule) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is regulated under Chapter 644, RSMo, the Missouri Clean Water Law;]

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

[4.]2. (Reserved)

[5.]3. [In addition to the requirements in 40 CFR 261.3 incorporated in this rule, hazardous waste may not be diluted solely for the purpose of rendering the waste nonhazardous unless dilution is warranted in an emergency response situation or where the dilution is part of a hazardous waste treatment process regulated or exempted under 10 CSR 25-7 or 10 CSR 25-9;] (Reserved)

[6.]4. [Fly ash that is not regulated under sections 260.200–260.245, RSMo, or sections 644.006–644.564, RSMo, or is not beneficially reused as allowed under 10 CSR 80-2.020(9)(B), and fails Toxicity Characteristic Leaching Procedure (TCLP) is not subject to the exclusion at 40 CFR 261.4(b)(4) and shall be disposed of in a permitted hazardous waste facility;] (Reserved)

[7.]5. [In 40 CFR 261.4(a)(8)(i) incorporated in this rule, substitute "is a totally enclosed treatment facility" for "through completion of reclamation is closed";] (Reserved)

[8.]6. [40 CFR 261.4(a)(11) is not incorporated in this rule;] (Reserved)

[9.]7. 40 CFR 261.4(a)(16) is not incorporated in this rule (Note: The paragraph at 40 CFR 261.4(a)(16) added by 63 FR

33823, June 19, 1998, is the paragraph not incorporated by 10 CSR 25-4.261(2)(A)9.);

[10.]8. [Household hazardous waste which is segregated from the solid waste stream becomes a regulated hazardous waste upon acceptance by delivery at a commercial hazardous waste treatment, storage, or disposal facility. Any waste for which the commercial facility becomes the generator in this way shall not be subject to waste minimization requirements under 40 CFR 264.73(b)(9), as incorporated by 10 CSR 25-7.264(1), nor shall that facility be required to pay hazardous waste fees and taxes on that waste pursuant to 10 CSR 25-12.010;] 40 CFR 261.4(a)(20) and (21) are not incorporated in this rule;

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

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

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

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

[C. A process, procedure, method, or technology is considered to be on-site treatment for the purposes of 40 CFR 261.5(f)(3) and 40 CFR 261.5(g)(3), as incorporated in this rule, only if it meets the following criteria:

(I) The process, procedure, method, or technology reduces the hazardous characteristic(s) and/or the quantity of a hazardous waste; and

(II) The process, procedure, method, or technology does not result in off-site emissions of any hazardous waste or constituent; and

D. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to 40 CFR 279.10(b)(3) as incorporated in 10 CSR 25-11.279;]

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

[14.]12. [40 CFR 261.6(a)(4) is amended by adding the following sentence: "Used oil that exhibits a hazardous characteristic and that is released into the environment is subject to the requirements of 10 CSR 25-3, 4, 5, 6, 7, 8, 9, and 13.";] (Reserved)

[15.]13. (Reserved)

[16.]14. [Recyclable materials that meet the definition of used oil in 40 CFR 260.10 as incorporated in 10 CSR 25-3.260(1) shall be managed in accordance with 10 CSR 25-11.279 and applicable portions of 10 CSR 25-3.260–10 CSR 25-9.020;] (Reserved)

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

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

(D) Lists of Hazardous Wastes. The following are additions or

changes to the lists in 40 CFR part 261 subpart D, incorporated in this rule:

1. Hazardous waste identified by the Environmental Protection Agency (EPA) hazardous waste number F020, F023, or F027 is hazardous waste even if highly purified 2,4,5-trichlorophenol is used. Therefore, the following language is deleted from 40 CFR 261.31 incorporated in this rule:

A. In F020, delete the words “(This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol.)”;

B. In F023, delete the words “(This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.)”; and

C. In F027, delete the words “(This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)”;

2. Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of waste listed in F020, F021, F022, F023, F026, or F027 (including the changes made in 10 CSR 25-4.261(2)(D)1.), regardless of the quantity or time of the spill or release, is an acutely hazardous waste and is designated the Missouri hazardous waste number MH01. Note: This does not include hexachlorophene soap rinses resulting from medicinal uses.;

3. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) is an acutely hazardous waste and is designated the Missouri hazardous waste number MH02. Without regard to any quantity specified in 40 CFR 261.5, as incorporated and modified in paragraph (2)(A)10. of this rule, if a generator generates less than one gram (1 g) of 2,3,7,8-TCDD in a calendar month and does not accumulate one gram (1 g) of 2,3,7,8-TCDD at any one time, that generator shall manage that hazardous waste in accordance with subsection 260.380.2, RSMo. When a generator generates one gram (1 g) of 2,3,7,8-TCDD in a calendar month or accumulates at least one gram (1 g) of 2,3,7,8-TCDD at any one time, that generator shall manage that hazardous waste in accordance with the provisions in 10 CSR 25.;

[4.]1. 40 CFR 261.38 is not incorporated in this rule.

AUTHORITY: section 260.370, RSMo Supp. [2010] 2013. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous

Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste. The commission is amending sections (1) and (2) of this rule.

PURPOSE: There are multiple purposes to this amendment. First of all, the incorporation by reference of 40 CFR part 262 and 40 CFR 302.4 and 302.5 will be updated to the July 1, 2013 edition, and the incorporation by reference of 49 CFR part 172 will be updated to the October 1, 2013 edition. In doing so, all changes to part 262 since the date of previous incorporation will be incorporated into the state rules. Second, the Department of Natural Resources has identified numerous changes in this rule that are required by section 260.373, RSMo. This section requires the department to identify rules that are inconsistent with the limitation on rulemaking authority established in this section and to make the necessary changes to the rule text by December 31, 2015. Finally, other changes to this rule are proposed as part of the routine process of making corrections to the rule, eliminating outdated rule text, and making the rules easier to understand, which will reduce the burden on both the department and the regulated community.

(1) The regulations set forth in 49 CFR part 172, [October 1, 1999] **October 1, 2013**, 40 CFR 302.4 and .5, July 1, [2006] **2013**, and 40 CFR part 262, July 1, [2010] **2013**, except [S]subpart H, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) A generator located in Missouri, except as conditionally exempted in accordance with 10 CSR 25-4.261, shall comply with the requirements of this section in addition to the requirements incorporated in section (1). Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. [For example, the additional storage standards which are added to 40 CFR part 262 subpart C are found in subsection (2)(C) of this rule.]

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

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

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

under 10 CSR 25-3.260–10 CSR 25-9.020 and 10 CSR 25-12.010; and

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

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

3. The following constitutes the procedure for registering:

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

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

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

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

E. Any person who pays the registration fee with what is found to be an insufficient check shall have their registration immediately revoked;

4. The following constitutes the procedure for registration renewal:

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

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

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

D. Any generator required to register who fails to pay the annual renewal fee by the due date specified on the billing shall be administratively inactivated and subject to enforcement action for failure to properly maintain their registration;

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

F. Generators who request that their registration be made

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

G. Any person who pays the annual renewal fee with what is found to be an insufficient check shall have their registration immediately revoked; and

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

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

[1. Generators must list the Missouri waste code MH02 if the hazardous waste is 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) as listed in 10 CSR 25-4.261(2)(D)3.

2. If the waste contains MH02 or MH01, these must be one (1) of the six (6) waste codes listed on the manifest.

3. Generators must list the Missouri waste code D098 if the hazardous waste is a used oil as described in 10 CSR 25-11.279(2)(I)1.B.]

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

[5.]2. Manifest reporting. This paragraph sets forth additional requirements for manifest reporting. The generator shall contract with the designated facility to return the completed manifest to the generator within thirty-five (35) days after the hazardous waste was accepted by the initial transporter. [A generator, in addition to this requirement, and where applicable under paragraph (2)(D)2. of this rule, shall file exception reports.]

(C) Pretransport, Containerization, and Labeling Requirements.

[1. During the entire time hazardous waste is accumulated in storage on-site, generators shall package, mark, and label hazardous waste containers in compliance with the requirements of 40 CFR 262.32 and 40 CFR part 262 subpart C, as incorporated and modified within these regulations. The generator is not required to mark the manifest document number for the shipment on the container until it is prepared for off-site shipment.]

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

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

B. Clearly label each container with words that correctly identify the hazards of the contents of the container during the entire on-site storage period. Such words shall include one or more of the following as defined in 40 CFR part 261 subparts C

and D: Ignitable, Toxic, Corrosive, or Reactive. The label shall be white with black lettering or black with white lettering that is a minimum of one (1) inch in height. If a generator determines that labeling a container with a capacity of less than one (1) gallon is not feasible, the generator shall affix the appropriate label(s) to the locker, rack or other device used to hold or accumulate any such container. Note that pursuant to 49 CFR 172.401, "No person may offer for transportation and no carrier may transport a package bearing any marking or label which by its color, design or shape could be confused with or conflict with a label prescribed by this part."

[2. This paragraph sets forth requirements for storage of hazardous waste based on the quantity of waste generated or accumulated.]

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

[A. Notwithstanding any other provisions of this rule to the contrary, a person who generates one hundred kilograms (100 kg) or more, but fewer than one thousand kilograms (1000 kg) of nonacute hazardous waste in a calendar month may store these hazardous wastes in quantities, according to time frames and under the conditions specified in 40 CFR 262.34(d) as incorporated in this rule. However, upon accumulating one thousand kilograms (1000 kg) of nonacute hazardous waste, the generator must also comply with 40 CFR 262.34(a)(1) incorporated in this rule rather than 40 CFR 262.34(d)(3) incorporated in this rule, 40 CFR part 265 subpart D as incorporated in 10 CSR 25-7.265(1) and modified in 10 CSR 25-7.265(2)(D) rather than 40 CFR 262.34(d)(5) incorporated in this rule, and 40 CFR 265.16 as incorporated in 10 CSR 25-7.265(1) and modified in 10 CSR 25-7.265(2)(D) in addition to the requirements of 40 CFR 262.34(d) incorporated in this rule.

B. A person who generates one kilogram (1 kg) of acutely hazardous waste defined by or listed in 10 CSR 25-4.261 or one gram (1 g) of 2,3,7,8-TCDD or one thousand kilograms (1000 kg) of nonacute hazardous waste, or an aggregate of one thousand kilograms (1000 kg) of hazardous waste, as listed in 10 CSR 25-4.261 shall comply with 40 CFR 262.34(a) and (b) as incorporated in this rule.

C. General inspection requirements. In addition to the requirements in 40 CFR Part 262, a generator shall also comply with the following requirements.

(I) The owner/operator shall inspect his/her facility for malfunction, deterioration, or both, operator error, and any evidence of discharges which may be causing or could cause the release of hazardous waste constituents to the environment or could pose a threat to human health. The owner/operator shall conduct these inspections often enough to identify and correct any problems of that nature before they cause harm to human health or the environment.

(II) The frequency of inspection may vary for the items that require inspection. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, shall be inspected daily when in use. At a minimum, the inspection schedule shall

include the terms and frequencies set forth in the applicable regulations in 40 CFR 265.174 and 40 CFR 265.195, incorporated in 10 CSR 25-7.265; and

(III) The owner/operator shall remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

D. Containment for storage in containers. This subparagraph sets forth additional requirements for storage of hazardous waste in containers.

(I) Container storage areas shall have a containment system that is designed and operated in accordance with part (2)(C)2. D.(III) of this rule, except as provided in part (2)(C)2.D.(II) of this rule.

(II) Storage areas that store containers holding only wastes that do not contain free liquids or storage areas that store less than one thousand kilograms (1000 kg) of nonacute hazardous waste containing free liquids need not have a containment system as described in part (2)(C)2.D.(I) of this rule, provided that the storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation, or the containers are elevated or are otherwise protected from contact with accumulated liquid.

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

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

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

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

(d) Run-on into the containment system shall be prevented unless the collection system has sufficient excess capacity in addition to that required in subpart (2)(C)2.B.(III)(c) of this rule to contain any run-on which might enter the system; and

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

(IV) The containment system must also be inspected as part of the weekly inspections required by 40 CFR 265.174 as incorporated in 10 CSR 25-7.265.

E. Tanks. This subparagraph sets forth additional requirements for storage of hazardous waste in tanks. Additional requirements set forth in paragraph (2)(C)2. apply to storage of hazardous waste in tank systems.

F. General requirements for ignitable, reactive, incompatible, or volatile wastes.

(I) Volatile waste having a true vapor pressure of greater than seventy-eight millimeters (78 mm) of mercury at twenty-five degrees Celsius (25°C) shall not be placed in an open tank.

(II) The owner/operator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. These hazardous wastes shall be separated and protected from sources of ignition or reaction including, but not

limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (that is, from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner/operator shall confine smoking and open flame to specially designated locations. No Smoking signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

G. Preparedness and prevention. In addition to the required equipment specified in 40 CFR 265.32, incorporated in 10 CSR 25-7.265, a generator shall also provide safety equipment such as fire blankets, gas masks, and self-contained breathing apparatus.]

3. Satellite accumulation. [In addition to the requirements in 40 CFR 262.34(c), the generator shall comply with the following requirements: Within one (1) year from the date satellite storage begins, irrespective of the quantity of hazardous waste in the satellite storage area, the hazardous waste shall be transferred to the area where hazardous waste is stored during the ninety (90)-, one hundred eighty (180)-, or two hundred seventy (270)-day storage period. And in 40 CFR 262.34(c)(1)(iii), add the words "Mark his containers either with the words 'Hazardous Waste' or with other words that identify the contents of the containers and the beginning date of satellite storage."] As an alternative to compliance with the accumulation limits in 40 CFR 262.34(c)(1), generators who instead wish to store up to fifty-five (55) gallons of each non-acute hazardous waste stream, or up to one (1) quart of each acutely hazardous waste stream in a satellite accumulation area may do so if they comply with the other applicable requirements of 40 CFR 262.34(c) and the following additional requirements:

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

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

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

D. A container of hazardous waste shall be stored in a satellite accumulation area for more than one (1) year pursuant to this paragraph 3. shall be removed from the satellite accumulation area within three calendar days if any of the following occurs:

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

(II) The container is full; or

(III) The container has reached its volume limit.

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

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

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

[5. In addition to requirements in 40 CFR 262.34(d), a generator, upon generating one thousand kilograms (1000 kg) of nonacute hazardous waste, in a calendar month or accumulating one thousand kilograms (1000 kg) of nonacute

hazardous waste, shall comply with paragraph (2)(C)2. of this rule.]

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

[6. All generators shall meet the special requirements for ignitable or reactive waste set forth in 40 CFR 265.176 incorporated in 10 CSR 25-7.265 and, therefore, the following language in 40 CFR 262.34(d)(2) is not incorporated in this rule: "except the generator need not comply with subsection 265.176."]

7. Closure. At closure of the storage area, the generator shall remove and properly dispose of all hazardous waste and hazardous residues. For the purpose of this paragraph, closure shall occur when the storage of hazardous wastes has not occurred or is not expected to occur for one (1) year.]

(D) Record Keeping and Reporting. In addition to requirements in 40 CFR 262.40, generators shall retain registration information required in subsection (2)(A) of this rule and the Generator's Hazardous Waste Summary Report required in paragraph (2)(D)1. of this rule for no fewer than three (3) years. [The period of record retention referred to in 40 CFR 262.40(d) begins the day the initial transporter signs the manifest. The period of record retention referred to extends upon the written requests of the department or automatically during the course of any unreleased enforcement action regarding the regulated activity.]

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

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

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

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

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

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

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

G. Generators failing to file the reports required by this rule shall have their registration administratively inactivated. Their registration shall be reactivated after all required reporting is filed, applicable fees are paid, and an updated generator registration form is submitted to the department.

[2. *Exception reporting. 40 CFR 262.42 is not incorporated in this rule. In lieu of those requirements, a generator shall comply with the following requirements:*

A. A generator shall contract with the designated facility to return the completed manifest to the generator within thirty-five (35) days after the date the waste was accepted by the initial transporter. A generator, in addition to the requirements of this subsection, shall comply with manifest reporting requirements in paragraph (2)(B)6. of this rule;

B. A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter shall contact the transporter, the owner, or both, or operator of the designated facility, to determine the status of the hazardous waste;

C. A generator who has not received the completed manifest with the handwritten signature of the designated facility operator within thirty-five (35) days from the date the waste was accepted by the initial transporter shall submit a completed exception report to the department within forty-five (45) days from the date the waste was accepted by the initial transporter; and

D. The exception report may be completed on the exception report form provided by the department or in a format which shall include the following: the generator's EPA identification number (if applicable), the Missouri generator identification number and the generator's name, address, and telephone number; the name, address, phone number, EPA identification number (if applicable), and Missouri transporter license number for each transporter; the EPA identification number of the facility (if applicable), the Missouri facility identification number, the facility telephone number, and the designated facility's name and address; the Missouri and EPA hazardous waste manifest document numbers followed by the date of shipment; the waste description and EPA waste code identification number as listed in 10 CSR 25-4 for each hazardous waste appearing on the manifest; the total quantity of each hazardous waste and the appropriate abbreviation for units of measure as follows: G—gallons (liquids only); P—pounds; T—tons (2,000 lbs.); Y—cubic yards; L—liters (liquids only); K—kilograms; M—metric tons (1,000 kg); N—cubic meters; the following certification statement, signed and dated by an authorized representative of the generator: "I have personally examined and am familiar with the information submitted on this form. I hereby certify that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information which include fine and imprisonment"; a legible

copy of the manifest document originated by the generator and signed by the initial transporter which was retained by the generator and for which the generator does not have confirmation of delivery; and a cover letter signed by the generator or his/her authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts. The director may require a generator to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 10 CSR 25-4.261 as the director deems necessary under section 260.375(7), RSMo.]

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

(I) [Emergency Procedures. In the event of a spill of hazardous waste at the generator's site, where there is clear and imminent danger to humans or the environment, the generator shall take reasonable action to eliminate the danger. In the event of a spill of a reportable quantity of material under 40 CFR 302.4 and 302.5 (Note: this includes table 302.4), a generator shall notify the department in accordance with the notification procedure set forth in 10 CSR 24-3.010.] (Reserved)

AUTHORITY: section[s] 260.370, RSMo Supp. 2013, and section 260.380, RSMo Supp. [2010] 2014. This rule was previously filed as 10 CSR 25-5.010. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

PRIVATE COST: This proposed amendment is estimated to cost private entities approximately thirteen thousand one hundred and forty-four dollars (\$13,144) in the aggregate. As detailed in the fiscal note, the department assumes that these are one- (1-) time costs and there are no recurring costs to comply with the rule. The fiscal note for this proposed amendment includes the information relied upon to develop this estimated cost of compliance.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name	<i>10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste</i>
Type of Rulemaking	<i>Amendment</i>

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
<i>14</i>	<i>Hazardous waste generators utilizing tanks to store hazardous waste</i>	<i>\$3472</i>
<i>21</i>	<i>Tanks used to store hazardous waste at permitted hazardous waste treatment, storage, and disposal facilities</i>	<i>\$5208</i>
<i>18</i>	<i>Tanks used to treat hazardous waste at permitted hazardous waste treatment, storage, and disposal facilities</i>	<i>\$4464</i>

III. Worksheet

The cost of a new aluminum sign which displays the information required under NFPA standard 704 ranges from \$10 for a 7.5 inch diamond to \$62 for a 30 inch diamond¹. The required size for the sign depends on the facility but for purposes of this fiscal note the department assumed that those affected by the requirement would purchase the largest size. In addition, the requirement can be met by displaying plastic signs or by displaying adhesive labels, both of which would be less expensive than purchasing aluminum signs. Again, for purposes of this fiscal note, the department is assuming the most expensive option for compliance with the rule.

The number of labels for each tank again varies according to the requirements of the rule, but for purposes of this fiscal note, the department assumes that one label will be required for both the front and back of the tank, and for each end of the tank, to ensure that the label is visible from any location around the tank. Therefore, each tank would require approximately 4 signs to comply with the requirements of NFPA 704.

At a cost of \$62 for a 30 inch sign, and with each tank requiring the display of four signs to comply with the requirements of the standard, it would cost \$248 to purchase the required signs for each tank affected by the rule.

$\$248 \times 14$ hazardous waste generators using waste description including the word "tank" = \$3472

$\$248 \times 21$ tanks used to store hazardous waste at permitted facilities = \$5208

$\$248 \times 18$ tanks used to treat hazardous waste at permitted facilities = \$4464

Total cost of compliance = $\$3472 + \$5208 + \$4464 = \$13,144$

¹Cost information was obtained from the website www.compliancesigns.com

IV. Assumptions

1. For the 2014 reporting year, a total of 14 generators reported a hazardous waste that used the word "tank" in the description of the waste. While not all of these may involve residue from a tank used by the generator to store or treat hazardous waste, the department believes that it is a reasonable estimate of the number of tanks being used by hazardous waste generators
2. The department used information from the RCRAInfo database to gather information on the number of permitted hazardous waste facilities actively using tanks to store or treat hazardous waste. Only tanks that are actively being used are included in the total number of tanks in each category.
3. Compliance cost will be a one-time cost because once labels have been purchased and applied to tanks, there will be no ongoing costs to comply with the labeling requirement

The proposed amendment includes a requirement that those storing hazardous waste in tanks comply with the National Fire Protection Association (NFPA) standard 704: *Standard System for the Identification of the Hazards of Materials for Emergency Response* to identify the hazards of the tank contents. Tanks are currently only required to be labeled with the words "hazardous waste". Any generator or permitted facility that stores hazardous waste in tanks will have to be in compliance with the NFPA standard, which uses placards to identify the hazards of the material stored in the tanks.

The requirement to label hazardous waste tanks applies to hazardous waste generators and hazardous waste treatment, storage, and disposal facilities (TSDs). A hazardous waste generator is any person or site whose processes and actions create hazardous waste.

The parties affected by the proposed changes to the requirements for labeling tanks include, but are not limited to, various types of businesses; treatment, storage and disposal facilities; industrial and academic laboratories; retail stores; schools; colleges; universities and other academic institutions, and manufacturing facilities.

Specifically, Section 260.373.1(3)(d) allows the department to retain, modify, or rescind rules *“requiring hazardous waste generators to display hazard labels (e.g., Department of Transportation (DOT) labels) on containers and tanks during the time hazardous waste is stored on-site”*. The exclusion which established the option to retain rules for the display of hazard labels on tanks was added to the bill based on concerns expressed by emergency responders. Emergency responders preferred to have some additional information on tanks that would assist them in determining the appropriate response in an emergency situation without having to approach the container or tank when it would be unsafe to do so. Based on this exclusion, the department discussed potential changes to the rules for hazardous waste tanks with stakeholders including emergency responders and, after several stakeholder meetings where this topic was discussed, draft rule language was prepared that was both consistent with the statutory limitation and provided emergency responders with sufficient additional information to satisfy their concerns. Stakeholders felt that whatever economic cost generators or permitted facilities would incur to place the appropriate labels on tanks was justified by the environmental benefit of providing information to facility employees and emergency responders about the contents of individual containers and tanks. The additional information will help to prevent accidental spills and releases, and in the event of a spill or release will provide necessary information to determine the appropriate response to the spill or release.

For hazardous waste tanks, while compliance with the NFPA standard is a new requirement, once tanks have been properly labeled they will not need to be relabeled unless the type of waste stored in the tank changes, or the label becomes worn from use and is no longer clearly visible. This should minimize the long term impact of this specific change.

The intent of the proposed amendment for labeling hazardous waste tanks in accordance with NFPA 704 is to prevent accidental releases or spills by making sure that proper containers and tanks are used in storage, and that incompatible wastes are not mixed together in the containers or tanks, which could cause a chemical reaction that would result in a fire, explosion, or the release of toxic fumes or gases. The additional information on the tank also provides emergency responders with visual information on the contents of the container or tank in the event of a spill or a release so that they can determine the appropriate response.

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

PROPOSED AMENDMENT

10 CSR 25-6.263 Standards for Transporters of Hazardous Waste. The commission is amending section (1) and the authority statement of the rule.

PURPOSE: The reason for this amendment is to update the incorporation by reference of 40 CFR part 263 from the July 1, 2010 edition to the July 1, 2013 edition. In doing so, all changes to part 263 during this time period will be incorporated into the state rules.

(1) The regulations set forth in 40 CFR part 263, July 1, [2010] 2013; 49 CFR parts 171–180, November 1, 1990, and December 1, 1997; and 49 CFR parts 40, 383, 387, 390–397, October 1, 1990, and October 1, 1997, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference, except for 49 CFR 390.3(f)(2), which is not incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule except that the modifications do not apply to the 49 CFR parts incorporated in this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

AUTHORITY: sections 260.370 and 260.373, RSMo Supp. [2010] 2013, and sections 260.385 and 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

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

PURPOSE: There are multiple purposes to this amendment. First of all, the incorporation by reference of 40 CFR part 264 will be updated to the July 1, 2013 edition. In doing so, all changes to part 264 since the date of previous incorporation will be incorporated into the state rules. Second, the Department of Natural Resources has identified numerous changes in this rule that are required by section 260.373, RSMo. This section requires the department to identify rules that are inconsistent with the limitation on rulemaking authority established in this section and to make the necessary changes to the rule text by December 31, 2015. Finally, other changes to this rule are proposed as part of the routine process of making corrections to the rule, eliminating outdated rule text, and making the rules easier to understand, which will reduce the burden on both the department and the regulated community.

(1) The regulations set forth in 40 CFR part 264, July 1, [2010] 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modification set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control. [“Owner/operator,” as defined in 10 CSR 25-3.260(2)(O)3., shall be substituted for any reference to “owner and operator” or “owner or operator” in 40 CFR part 264 incorporated in this rule.]

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

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

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

2. A permit is not required under this rule for an elementary neutralization unit or a wastewater treatment unit receiving only hazardous waste that is generated on-site or generated by its operator or only one (1) generator if the owner/operator, upon request, can demonstrate to the satisfaction of the department compliance with the requirements in 10 CSR 25-7.270(2)(A)3.

3. Hazardous waste which must be managed in a permitted unit (for example, waste generated on-site and stored beyond the time frames allowed without a permit pursuant to 10 CSR 25-5.262, waste received from off-site, certain hazardous waste fuels, etc.) shall not be stored or managed outside an area or unit which does not have a permit or interim status for that waste for a period which exceeds twenty-four (24) hours. This provision shall not apply to railcars held for the period allowed by, and managed in accordance with, 10 CSR 25-7.264(3) of this regulation. (Comment: The purpose of this paragraph is to allow necessary movement of hazardous waste into, out of, and through facilities, and not to evade permit requirements.)

(B) General Facility Standards. **(Reserved)** [This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart B.

1. The substitution of terms at 10 CSR 25-3.260(1)(A)1. does not apply to 40 CFR 264.12(a), incorporated by reference in this rule. In addition to the requirements in 40 CFR 264.12(a) incorporated in this rule, an owner/operator shall submit to the department a separate analysis for each hazardous waste that s/he intends to import. Each analysis shall contain the following information: the foreign generator's name, site address, and telephone number; a list of applicable United States Environmental Protection Agency (EPA) waste codes and a percentage of each for each hazardous waste; the flash point determined in accordance with 40 CFR 261.21 incorporated by reference in 10 CSR 25-4; a list of reactive waste(s) as defined in 40 CFR 261.23 incorporated by reference in 10 CSR 25-4; and results of toxicity tests conducted in accordance with 40 CFR 261.24 incorporated by reference in 10 CSR 25-4.261, if applicable.

2. Information describing the frequency and type of analysis performed on run off and leachate generated at the hazardous waste management units shall be included as part of the waste analysis plan required in 40 CFR 264.13(b) incorporated in this rule.

3. 40 CFR 264.15(b)(5) is not incorporated in this rule.

4. The comment following 40 CFR 264.18(a) is not incorporated in this rule.]

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

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

[2. As it becomes available, the following additional information shall be maintained in the operating record described in 40 CFR 264.73 incorporated in this rule until final closure, at which time the operating record shall be submitted to the department:

A. The information from each manifest shall be maintained in the operating record;

B. In addition to the requirements in 40 CFR 264.73(b)(2) incorporated in this rule, an owner/operator of a hazardous waste disposal facility shall record the location and quantity of each hazardous waste shipment on a map or diagram of each cell or disposal area with respect to a surveyed permanent benchmark and baseline;

C. In addition to the requirements in 40 CFR 264.73(b)(2) incorporated in this rule, an owner/operator of a facility which has had a release or which has hazardous waste or hazardous waste constituent migration beyond the hazardous waste management unit shall record the locations and concentrations of contamination on a map or diagram with respect to a surveyed permanent benchmark and baseline;

D. If applicable, information regarding volumes, dates of removal, and disposition of leachate removed from collection points shall be maintained in the operating record; and

E. A complete copy of the final, approved permit application, including all approved engineering plans, shall be maintained in the operating record.]

[3.]2. The [owner/operator] owner or operator of a hazardous waste management facility shall submit a report to the department as set forth in this paragraph.

A. All [owners/operators] owners or operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the [owner/operator] owner or operator is

required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

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

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

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

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

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

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

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

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

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

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

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

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

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

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

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

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

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

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

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

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

(F) Releases From Solid Waste Management Units. **(Reserved)**. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart F.

1. If the department determines that there is a significant risk to human health or the environment resulting from ground or surface water contamination from operation of any hazardous waste management facility or solid waste management unit, the department may condition the permit for a facility or unit; or upon issuance or reissuance or by modification of a permit, the department may require that an owner/operator of the facility comply with the requirements of this section. An owner/operator shall furnish to the department, within a reasonable time period, any information which the department requests to comply with this subsection.

2. In addition to requirements in 40 CFR 264.91(a)(3) and 40 CFR 264.100(e)(2) incorporated in this rule, the owner/operator shall document in the operating record all efforts taken to monitor groundwater or take corrective action beyond the facility boundary.

3. The facility permit will include, as described in 40 CFR 264.100(b) incorporated in this rule, a course of action to implement remedial procedures. The corrective action program may include, if necessary, closure of the appropriate units to prevent further leachate generation and transport.

4. This paragraph sets forth requirements for surface water monitoring.

A. The owner/operator is exempt from regulations under this paragraph if—

(I) S/he is exempted under this subsection and 40 CFR part 264 subpart F, incorporated in this rule; or

(II) The department finds based upon a demonstration by the owner/operator, that there is low potential for migration of liquid from the facility or unit to surface water bodies throughout the post-closure care period. This demonstration shall be certified by a registered geologist or professional engineer registered in Missouri; or

(III) The surface water runoff from the regulated unit(s) is being monitored in accordance with the facility's National Pollutant Discharges Elimination System (NPDES) or state operating stormwater discharge permit and the NPDES or state operating permit is substantially equivalent to that which would otherwise be required under this section.

B. An owner/operator shall establish a surface water monitoring program, except as provided otherwise in subparagraph (2)(F)4.A. of this rule. This program shall be designed to protect human health and the environment. The owner/operator, at a minimum, shall fulfill the following requirements:

(I) The surface water monitoring system shall consist of a sufficient number of points at appropriate locations to yield surface water samples that—

(a) Represent the quality of background surface water that has not been affected by any contamination from the facility (for example, upgradient); and

(b) Represent the quality of surface water hydrologically downgradient of the facility or regulated units;

(II) The surface water monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results which provide a reliable indication of surface water quality at the facility and changes in the water quality due to the impact of the facility or regulated units;

(III) The owner/operator shall report to the department the surface water analysis by including it in the routine reports required by part (2)(E)3.C.(VI) of this rule; and

(IV) If the department determines, based upon the findings in the reports submitted under part III of this subparagraph, that there is a substantial threat to human health or the environment, it will direct the owner/operator, through modification of the facility permit, to take corrective and preventative measures.

5. The department may require additional monitoring to protect human health and the environment.]

(G) Closure and Post-Closure. **(Reserved)** [This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart G.

1. The incorporation by reference of 40 CFR 264.113(d) and (e) does not relieve the owner/operator of his/her responsibility to comply with 10 CSR 80.

2. The owner/operator of a hazardous waste unit which is certifying closure with residues left in place, regardless of the level of treatment to render the residue nonhazardous, shall meet the requirements in 40 CFR 264.116 incorporated in this rule.

3. In addition to requirements in 40 CFR 264.116, when an owner/operator certifies a closure which did not result in the removal of wastes to background levels, the owner/operator shall record, in accordance with state law, a notation on an instrument which is normally examined during title search that in perpetuity will notify any potential purchaser of the property that the land has been used to manage hazardous waste.

4. In addition to requirements in 40 CFR 264.116 and 264.119 as incorporated in this rule, an owner/operator shall submit a notarized statement to the department certifying that the owner/operator has caused the notation(s) to be recorded. The notation shall be recorded with the recorder(s) of deeds in all counties in which the facility is located.]

(H) Financial Assurance Requirements. *(Reserved)* [This subsection sets forth the requirements which modify or add to those requirements in 40 CFR part 264 subpart H.

1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any facility that would be considered a commercial hazardous waste TSD facility for the purposes of 10 CSR 25-12.020, or any facility that is certified as an R2 resource recovery facility according to 10 CSR 25-9.020, or any facility that receives for remuneration polychlorinated biphenyls (PCB) material or PCB units as defined by 10 CSR 25-13.010.

2. In 40 CFR 264.143(a)(3), incorporated by reference in this rule, delete "the term of the initial RCRA permit" and insert in its place "a period of five (5) years, beginning with the date the permit is issued."

3. In 40 CFR 264.145(a)(3), incorporated by reference in this rule, delete "the term of the initial RCRA permit" and insert in its place "a period of five (5) years, beginning with the date the permit is issued."

4. This paragraph modifies the requirements for surety bonds guaranteeing payment into a closure trust fund or post-closure trust fund per 40 CFR 264.143(b) or 40 CFR 264.145(b), incorporated in this rule.

A. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall not cancel, terminate, or fail to renew a surety bond guaranteeing payment into a closure or post-closure trust fund, and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation:

(I) The director deems the facility abandoned; or

(II) The permit is terminated or revoked, or a new permit is denied; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under 11 U.S.C. section 1, et seq.; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as specified in part (4)(H)4.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bond(s) guaranteeing payment into a closure trust fund or a post-closure trust fund as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

5. This paragraph modifies the requirements for surety bonds guaranteeing performance of closure or performance of post-closure care per 40 CFR 264.143(c) or 40 CFR 264.145(c), incorporated in this rule.

A. A surety company issuing a surety bond for closure or post-closure performance shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond for closure or post-closure performance shall not cancel, terminate, or fail to renew a surety bond guaranteeing performance of closure or post-closure care and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation:

(I) The director deems the facility abandoned; or

(II) The permit is terminated or revoked, or a new permit is denied; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as specified in part (4)(H)5.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bonds guaranteeing performance of closure or performance of post-closure care as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

6. This paragraph modifies the requirements for letters of credit per 40 CFR 264.143(d), 40 CFR 264.145(d), and 40 CFR 264.147(h), incorporated in this rule. Letters of credit shall be issued by a state- or federally-chartered and regulated bank or trust association.

7. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a financial test as specified in 40 CFR 264.143(f), 40 CFR 264.145(f), or 264.147(f), incorporated in this rule.

8. This paragraph modifies the requirements for closure insurance per 40 CFR 264.143(e), incorporated in this rule, post-closure insurance per 40 CFR 264.145(e), incorporated in this rule, liability coverage for sudden accidental occurrences per 40 CFR 264.147(a)(1), incorporated in this rule, and liability coverage for non-sudden accidental occurrences per 40 CFR 264.147(b)(1), incorporated in this rule. Each insurance policy shall be issued by an insurer who, at a minimum, is licensed to transact the business of insurance or is eligible to provide insurance as an excess or surplus lines insurer in Missouri.

9. In 40 CFR 264.143(f), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

10. In 40 CFR 264.145(f), incorporated in this rule, delete "or a firm with 'a substantial business relationship' with the owner or operator."

11. In 40 CFR 264.147(g), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

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

[1. An owner/operator of a facility which treats hazardous waste in containers shall meet the requirements of 40 CFR 264.601–264.603 incorporated in this rule and subsection (2)(X) of this rule.]

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

[3. Container storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.264(2)(G).]

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

[5.]3. Containers holding ignitable or reactive waste that are stored indoors shall be located at least fifty feet (50') from the facility's

property line unless the following requirements are satisfied:

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

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

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

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

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

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

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

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

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

(J) Tanks. *(Reserved)* [This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart J.

1. Hazardous waste that has a true vapor pressure of greater than seventy-eight millimeters of mercury (78 mm Hg) at twenty-five degrees Celsius (25 °C) is considered to be volatile and shall not be placed in an open tank.

2. 40 CFR 264.190(c) is not incorporated by reference.

3. In 40 CFR 264.193(g) incorporated in this rule, delete "or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment." 40 CFR 264.193(g)(2) and its subdivisions are not incorporated in this rule.

4. For purposes of 40 CFR 264.193(h) incorporated in this rule, "variance" means exception.

5. In 40 CFR 264.196(c) and 40 CFR 264.196(c)(1) incorporated in this rule, delete "visible" and "visual." Tank storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.264(2)(G).

6. An owner/operator of a facility which treats hazardous waste in a tank system shall meet the requirements of 40 CFR 264.601–40 CFR 264.603 incorporated in this rule and subsection (2)(X) of this rule.]

(K) Surface Impoundments. *(Reserved)* [This subsection sets forth standards and requirements which modify or add to those requirements in 40 CFR part 264 subpart K.

1. Design and operating requirements are as follows:

A. Any existing surface impoundment or existing portion of a surface impoundment shall be replaced with a new surface impoundment in compliance with 40 CFR part 264 subpart K, incorporated in this rule, and this subsection prior to permit issuance;

B. Each new surface impoundment shall be constructed with a double liner as required in 40 CFR 264.221(c), incorporated in this rule, and subparagraphs (2)(K)1.C. and D. of this rule;

C. The lower component of the composite liner required by 40 CFR 264.221(c) shall, at a minimum, consist of at least three feet (3') of clay, recompacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (American Society for Testing and Materials (ASTM) Standard D2487-93, current edition approved September 15, 1993, published November 1993);

(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140-54 (reapproved 1971), current edition approved September 15, 1954);

(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, current edition approved December 10, 1995, published April 1996);

(IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as previously referenced in this rule); and

(V) Have a coefficient of permeability equal to or less than 1×10^{-8} cm/sec when compacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content, and when tested by using the indirect calculation from the one (1)-dimensional consolidation test for clay rich soils (ASTM D2435-96, current edition approved June 10, 1996, published August 1996) or other procedures approved by the department;

D. The leak detection system required by 40 CFR 264.221(c)(2) shall cover the entire sides and bottom of the surface impoundment;

E. When liquids are detected in the leak detection system installed to comply with subparagraph (2)(K)1.D. of this rule and 40 CFR 264.221(c)(2), the owner/operator shall—

(I) Notify the department in writing within thirty (30) days of the event;

(II) Continue to operate and maintain the leak detection system so that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the system; and

(III) Implement leachate monitoring in accordance with paragraph (2)(K)1.F. of this rule and the facility permit;

F. This paragraph sets forth requirements for leachate monitoring at surface impoundments. An owner/operator that is required under subparagraph (2)(K)1.E. of this rule to initiate leachate monitoring shall comply with parts (2)(K)1.F.(I)–(IV) of this rule.

(I) The owner/operator shall remove any accumulated leachate in the leak detection system collection sumps at least weekly during the active life and closure period. After the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is required by 40 CFR 264.226(d)(2) to record the amount of liquids removed from the system.

(II) The owner/operator shall analyze the leachate at least annually. At a minimum, the annual leachate analyses shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to be in or derived from wastes contained in each unit.

(III) The owner/operator shall calculate the average daily flow rate for each sump as required by 40 CFR 264.222(b). If the department determines that the leachate generation rate is greater than reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions.

(IV) In accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule, the owner/operator shall submit to the department all information required to comply with parts (2)(K)1.F.(I)–(III) of this rule.

(V) The department may require more frequent leachate collection and analysis than that outlined in parts (2)(K)1.F.(I)–(III) of this rule if determined necessary. The frequency of leachate collection and analysis will be specified in the facility permit.

(VI) Indicator parameters and constituents to be monitored as required by part (2)(K)1.F.(II) of this rule will be specified by the department in the facility permit. If the department determines that results of the chemical analyses are outside of the range that is reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions;

G. The owner/operator shall measure daily precipitation at the facility until final closure is certified. During the post-closure care period of the facility, the owner/operator shall also record and report regional precipitation from the nearest weather recording station in accordance with the schedule established for the maintenance of the facility. The information required under this paragraph shall be submitted to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule; and

H. If the leachate monitoring (implemented in accordance with subparagraph (2)(K)1.F. of this rule) detects hazardous waste(s) constituents in the leak detection system, a leak in the surface impoundment liner is indicated and the owner/operator shall—

(I) Within seven (7) days after detecting the leak,

notify the department in writing of the leak;

(II) Remove, within the period of time specified in the permit, accumulated liquid, repair or replace the leaking liner to prevent the migration of hazardous waste liquids through the liner and obtain a certification from a registered professional engineer that, to the best of his/her knowledge and opinion, the leak has been stopped; and

(III) Obtain, after performing the necessary repairs, written approval from the department prior to placing the surface impoundment in service again.

2. Those surface impoundments which are intended to be closed without removing the hazardous waste shall meet the requirements of subparagraph (2)(N)1.A. and 40 CFR part 264 subpart N, incorporated in this rule. If the site cannot meet these requirements and contamination exists beyond the liner of the surface impoundment, the owner/operator shall clean up contaminated residues and hazardous constituents to the greatest extent practical during closure. If the department determines, based on the potential impact on human health and the environment, that it is not necessary or feasible to remove contaminated material down to background concentrations during closure, the owner/operator shall—

A. Comply with subsection 40 CFR 264.228(b) incorporated in this rule; or

B. Submit and obtain approval for a delisting petition pursuant to 40 CFR 260.20 and 40 CFR 260.22 for the contaminated material not removed during closure.

3. An owner/operator of a facility which treats hazardous waste in a surface impoundment shall meet the requirements of 40 CFR 264.601–40 CFR 264.603 incorporated in this rule and subsection (2)(X) of this rule.]

(L) Waste Piles. *(Reserved)* [This subsection sets forth standards which modify or add to those requirements in 40 CFR part 264 subpart L.

1. In addition to the requirements in 40 CFR part 264.250(c) incorporated in this rule, the waste pile must be at least ten feet (10') above the historical high groundwater table to be exempt from the regulatory requirements in 40 CFR 264.251 incorporated in this rule, 40 CFR part 264 subpart F incorporated in this rule, and subsection (2)(F) of this rule.

2. Design and operating requirements are as follows:

A. Any existing waste pile or existing portion of a waste pile shall be replaced with a new waste pile in compliance with 40 CFR 264 subpart L, incorporated in this rule, and this subsection prior to permit issuance;

B. Each new waste pile shall be constructed with a double liner as required in 40 CFR 264.251(c), incorporated in this rule, and subparagraphs (2)(L)2.C. and D. of this rule;

C. The lower component of the composite liner required by 40 CFR 264.251(c), at a minimum, shall consist of at least three feet (3') of clay, recompacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (ASTM Standard D2487-93, as previously referenced in this rule);

(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140, as previously referenced in this rule);

(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, as previously referenced in this rule);

(IV) Have a plasticity index equal to or greater than

fifteen (15) (ASTM Test D4318-95a, as previously referenced in this rule); and

(V) Have a coefficient of permeability equal to or less than 1×10^{-8} cm/sec when compacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content, and when tested by using the indirect calculation from the one (1) dimensional consolidation test for clay rich soils (ASTM D2435-96, as previously referenced in this rule) or other procedures approved by the department;

D. The leak detection system required by 40 CFR 264.251(c)(3) shall be capable of detecting leaks from the entire area of the waste pile;

E. When liquids are detected in the leachate collection/removal system installed to comply with 40 CFR 264.251(c)(2), the owner/operator shall—

(I) Notify the department in writing within thirty (30) days of the event;

(II) Continue to operate and maintain the leachate collection/removal and leak detection systems so that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the system; and

(III) Implement leachate monitoring in accordance with subparagraph (2)(L)2.F. of this rule and the facility permit;

F. This paragraph sets forth requirements for leachate monitoring at waste piles. An owner/operator that is required under subparagraph (2)(L)2.E. to initiate leachate monitoring shall comply with parts (2)(L)2.F.(I)–(IV) of this rule.

(I) The owner/operator shall remove any accumulated leachate in the leachate collection/removal and leak detection system collection sumps at least weekly during the active life and closure period. After the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is required by subparagraph (2)(L)3.A. of this rule to record the amount of liquids removed from the system.

(II) The owner/operator shall analyze leachate from the leak detection system at least annually. If leachate has not yet been discovered in the leak detection system, the annual analysis shall be completed on leachate collected from the leachate collection/removal system. At a minimum, the annual leachate analyses shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to be in or derived from wastes contained in each unit.

(III) The owner/operator shall calculate the average daily flow rate for each sump in the leak detection system as required by 40 CFR 264.252(b), in addition the average daily flow rate for each sump calculated in a similar manner. If the unit is closed in accordance with 40 CFR 264.258(b), the average daily flow rates shall be calculated at the same frequency as the recording of leachate removal as required by subparagraph (2)(L)3.B. of this rule. If the department determines that the leachate generation rate is greater than reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions.

(IV) The owner/operator shall submit all information required to comply with parts (2)(L)2.F.(I)–(III) of this rule to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule.

(V) The department may require more frequent

leachate collection and analysis than that outlined in parts (2)(L)2.F.(I)–(III) of this rule if determined necessary. The frequency of leachate collection and analysis will be specified in the facility permit.

(VI) Indicator parameters and constituents to be monitored, as required by part (2)(L)2.F.(III) of this rule, will be specified by the department in the facility permit. If the department determines that results of the chemical analyses are outside of the range that is reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions;

G. The owner/operator shall measure daily precipitation at the facility until final closure is certified. During the post-closure care period of the facility, the owner/operator shall also record and report regional precipitation from the nearest weather recording station in accordance with the schedule established for the maintenance of the facility. The information required under this paragraph shall be submitted to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule; and

H. If the leachate monitoring (implemented in accordance with subparagraph (2)(L)2.F. of this rule) detects hazardous waste constituents in the leak detection system, a leak in the waste pile liner is indicated, and the owner/operator shall—

(I) Notify the department in writing of the leak within seven (7) days after detecting the leak;

(II) Remove, within the period of time specified in the permits, accumulated liquid, repair or replace the leaking liner to prevent the migration of hazardous waste liquids through the liner and obtain a certification from a registered professional engineer that, to the best of his/her knowledge and opinion, the leak has been stopped; and

(III) Obtain, after performing the necessary repairs, written approval from the department prior to placing the waste pile in service again.

3. This paragraph sets forth standards which modify or add to those requirements in 40 CFR 264.254(c) for monitoring and inspection.

A. In addition to recording the amount of liquids removed from each leak detection system sump at least once per week during the active live and closure period, the owner/operator shall record the amount of liquids removed from each leachate collection/removal system sump at the same frequency.

B. If the waste pile is closed in accordance with 40 CFR 264.258(b), following closure the amount of liquids removed from each leachate collection/removal and leak detection system sump shall be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two (2) consecutive months, the amount of liquids in the sump must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two (2) consecutive quarters, the amount of liquids in the sump shall be recorded at least semiannually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner/operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two (2) consecutive months.]

(N) Landfills. **(Reserved)** [This subsection sets forth standards which modify or add to those requirements in 40 CFR part 264 subpart N.

1. This paragraph sets forth standards for a site suitability demonstration.

A. Location standards.

(I) A landfill shall be located so as to minimize discharges and the potential for harm to human health and the environment.

(II) A landfill shall be located so that a total of no less than thirty feet (30') of soil or other material, which has a coefficient of permeability of less than 1×10^{-7} cm/sec, when tested according to subpart (2)(N)1.B.(II)(d) of this rule, lies between the bottom of the lowest artificial liner or lowest engineered soil liner and the uppermost regional aquifer.

(III) The requirements of part (2)(N)1.A.(III) of this rule do not apply to a landfill which meets the following criteria:

(a) Demonstrates to the satisfaction of the department by a combination of laboratory tests, field test and development of models that naturally occurring materials between the lowest artificial liner or lowest engineered soil liner and the uppermost regional aquifer would retard the migration of hazardous constituents contained in the waste to at least the same degree that thirty feet (30') of material having a coefficient of permeability of 1×10^{-7} cm/sec when tested according to subpart (2)(N)1.B.(II)(d) would retard the migration of water, but in no case shall the thickness of the naturally occurring material be less than twenty feet (20');

(b) Receives only wastes generated by its operator(s); and

(c) Meeting the criteria in subparts (2)(N)1.A.(III)(a) and (b) shall not waive compliance with any regulations except those set forth in part (2)(N)1.A.(III) of this rule.

(IV) No landfill shall be located in the following areas:

(a) In a wetland;

(b) Within two hundred feet (200') of a fault which has had surface displacement in Holocene time;

(c) In a one hundred (100)-year flood plain;

(d) In an area of unstable soil deposits or area(s) containing landslides; or

(e) In an area subject to catastrophic collapse as evaluated by the Division of Geology and Land Survey.

B. The permit application shall include the following engineering reports:

(I) A geologic description of the region in which the site is located, which description shall be prepared by a qualified geologist familiar with the region;

(II) A description of the natural soils and bedrock underlying the site including a representative number of borings that indicate the type, depth and thickness of soils, bedrock, and other materials underlying the site and test results that indicate the following parameters for soils or other materials underlying the site. The following test methods shall be utilized unless other procedures have been evaluated and approved by the department:

(a) Atterberg limits (ASTM D4318-95a, as previously referenced in this rule);

(b) pH (Methods of Soil Analysis Part II, Chemical and Microbiological Properties, A.L. Page, Ed. American Society of Agronomy, 2nd Ed., 1982, pp. 200-209);

(c) Maximum dry density at optimum moisture content (ASTM D1557-91, current edition approved November 18, 1991, published January 1992);

(d) Coefficient of permeability, which is the indirect calculation from the one (1)-dimensional consolidation test for clay rich soils (ASTM D2435-96, as previously referenced in this rule) or other laboratory procedures found in the professional literature and approved by the department;

(e) Grain size distribution, Unified Soil Classification

System designation (ASTM Standards D2487-93, as previously referenced in this rule and D422-63 (reapproved 1990) current edition approved November 21, 1963); and

(f) Cation exchange capacity (Methods of Soil Analysis Part II, Chemical and Microbiological Properties, A.L. Page, Ed., American Society of Agronomy, 2nd Ed., 1982, pp. 149-157);

(III) A hydrogeologic study conducted at the site to determine the potential for transport of groundwater and contaminants. This study shall include:

(a) Piezometric contours of groundwater;

(b) Potential direction(s) of groundwater movement and estimated rate(s);

(c) Identification and description of the aquifer(s);

(d) Background water quality data; and

(e) Field permeability tests as found in the professional literature and approved by the department;

(IV) A present water balance which shall be determined as outlined in Use of the Water Balance Method for Predicting Leachate Generation from Solid Waste Disposal Sites, EPA/530/SW-168 or an equivalent method approved by the department;

(V) Engineering and geologic drawings that delineate—

(a) Typical disposal cells for each hazardous waste type;

(b) Structures for surface water control;

(c) Locations of borings and monitoring systems;

(d) Leachate collection systems, bottom elevations, and cover elevations for each disposal area; and

(e) Stratigraphic cross-sections of the geologic setting showing, at a minimum, boring locations and depths, trench design and depths, and piezometric surfaces and water tables where present; and

(VI) Any other applicable details.

2. This paragraph sets forth additional design and operating requirements.

A. Any existing landfill or existing portion of a landfill shall be replaced with a new landfill in compliance with 40 CFR part 264 subpart N, incorporated in this rule, and this subsection prior to permit issuance;

B. Each new landfill shall be constructed with a double liner as required in 40 CFR 264.301(c), incorporated in this rule, and subparagraphs (2)(N)2.C. of this rule;

C. The lower component of the composite liner required by 40 CFR 264.301(c), at a minimum, shall consist of at least three feet (3') of clay, recompacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (ASTM Standard D2487-93, as previously referenced in this rule);

(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140, as previously referenced in this rule);

(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, as previously referenced in this rule);

(IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as previously referenced by this rule); and

(V) Have a coefficient of permeability equal to or less than 1×10^{-8} cm/sec when compacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%)

above the optimum moisture content, and when tested by using the indirect calculation from the one (1)-dimensional consolidation test for clay rich soils (ASTM D2435-96, as previously referenced by this rule) or other procedures approved by the department;

D. Each detection or collection and removal system shall meet the requirements of 40 CFR 264.301(c)(3)(I)-(V), incorporated in this rule.

E. The leak detection system required by 40 CFR 264.301(c)(3) shall be capable of detecting leaks from the entire sides and bottom of each cell.

F. When liquids are detected in the leachate collection/removal system installed to comply with 40 CFR 264.301(c)(2), the owner/operator shall—

(I) Notify the department in writing within thirty (30) days of the event;

(II) Continue to operate and maintain the leachate collection/removal and leak detection systems so that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the system; and

(III) Implement leachate monitoring in accordance with subparagraph (2)(N)2.G. of this rule and the facility permit;

G. This paragraph sets forth requirements for leachate monitoring at landfills. An owner/operator that is required under subparagraph (2)(N)2.F. to initiate leachate monitoring shall comply with parts (2)(N)2.G.(I)-(V) of this rule.

(I) The owner/operator shall remove any accumulated leachate in the leachate collection/removal and leak detection system collection sumps at least weekly during the active life and closure period. After the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is required by 40 CFR 264.303(c)(2) to record the amount of liquids removed from the systems.

(II) The owner/operator shall analyze leachate from the leak detection system at least annually. If leachate has not yet been discovered in the leak detection system, the annual analysis shall be completed on leachate collected from the leachate collection/removal system. At a minimum, the annual leachate analyses shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to be in or derived from wastes contained in each unit.

(III) At the first occurrence of leachate in the leak detection system, the owner/operator shall analyze leachate from that system for the complete list of parameters identified in 40 CFR part 264 Appendix IX.

(IV) The owner/operator shall calculate the average daily flow rate for each sump in the leak detection system as required by 40 CFR 264.302(b). In addition, the average daily flow rate for each sump in each of the leachate collection/removal systems shall also be calculated in a similar manner. Following closure, the average daily flow rates shall be calculated at the same frequency as the recording of leachate removal as required by 40 CFR 264.303(c)(2). If the department determines that the leachate generation rate is greater than reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions.

(V) The owner/operator shall submit all information required to comply with parts (2)(N)2.G.(I)-(IV) of this rule to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this

rule.

(VI) The department may require more frequent leachate collection and analysis than that outlined in parts (2)(N)2.G.(I)-(IV) of this rule if determined necessary. The frequency of leachate collection and analysis will be specified in the facility permit.

(VII) Indicator parameters and constituents to be monitored as required by part (2)(N)2.G.(II) of this rule will be specified by the department in the facility permit. If the department determines that results of the chemical analyses are outside of the range that is reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions.

H. The owner/operator shall measure daily precipitation at the facility until final closure is certified. During the post-closure care period of the facility, the owner/operator shall also record and report regional precipitation from the nearest weather recording station in accordance with the schedule established for the maintenance of the facility. The information required under this paragraph shall be submitted to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule.

I. If the volume or rate of flow of leachate contained in the leak detection system (implemented in accordance with subparagraph (2)(N)2.G. of this rule) exceeds ten percent (10%) of the action leakage rate as defined in 40 CFR 264.302, incorporated in this rule, then the owner/operator shall analyze the leachate for the indicator parameters and constituents outlined in the facility permit. If the analyzed leachate exceeds the detection limits outlined in the facility permit, the owner/operator shall—

(I) Notify the department in writing of the leak within seven (7) days after detecting the leak;

(II) Remove, within the period of time specified in the permit, accumulated liquid, conduct an assessment of the leakage to determine the cause and extent of the leak, and, if necessary, initiate repairs or replace the leaking liner to prevent the migration of hazardous waste liquids through the liner; and

(III) Submit to the department the assessment and a certification from a registered professional engineer describing any repairs or replacement of the liner system within thirty (30) days of completion.

J. A landfill shall be designed, constructed, and operated to minimize erosion, landslides and sloughing.

K. Where necessary, features shall be provided around closed units or, when leachate is detected in the lower leachate collection system, features shall control horizontal migration of leachate from the disposal unit. These features may include, but are not limited to, recompacted trench walls, slurry trenches, and interceptor trenches.

L. There shall be a minimum of three hundred feet (300') of buffer between the property line of the disposal facility and the permitted area.

M. If the owner/operator accepts any odoriferous waste, the owner/operator shall apply cover or otherwise manage the landfill to control odor dispersal.

N. If gases are generated within the landfill, a gas collection and control system shall be installed to control the vertical and horizontal escape of gases from the landfill.

3. All hazardous wastes accepted for disposal shall be listed in the permit application in accordance with 40 CFR 270.13(j) as incorporated by reference in 10 CSR 25-7.270. In addition, departmental approval of individual waste streams may be required prior to allowing the disposal of the waste streams in the landfill.

4. Wastes having a true vapor pressure greater than seventy-eight millimeters of mercury (78 mm Hg) at twenty-five degrees Celsius (25 °C) are volatile wastes and shall not be landfilled.]

(O) Incinerators. *(Reserved)* [This subsection sets forth standards which modify or add to those requirements in 40 CFR part 264 subpart O.

1. Sampling methods to determine compliance with 40 CFR 264.343 incorporated in this rule will be specified by the department in the permit and shall consist of any of the following methods:

A. The methods described in the Engineering Handbook for Hazardous Waste Incineration, SW-889, by the United States EPA or equivalent; or

B. The methods specified in 40 CFR part 60 Appendix A (July 1, 1989). For facilities subject to paragraph (2)(O)2. of this rule, the methods referenced in this paragraph shall be used exclusively to determine compliance with the emission limitations required in this subsection.

2. The provisions of 40 CFR part 60 subpart E, July 1, 1989, shall apply and are incorporated by reference as part of this rule. An owner/operator of a hazardous waste incinerator which is regulated under the New Source Performance Standards in that subpart shall comply with the provisions in addition to complying with all other applicable provisions in this rule.

3. Where emission limitations found in both paragraph (2)(O)2. of this rule and in another provision of this rule are applicable to a hazardous waste incinerator, the more stringent shall control.

(P) Health Profiles.

1. An owner/operator shall submit a health profile, as required by section 260.395.7(5), RSMo, with the initial application for a hazardous waste treatment or land disposal facility. A health profile is not necessary for facilities that must obtain a permit for only post-closure care and/or corrective action activities. A health profile shall identify any potential serious illnesses, the rate of which exceeds the state average for the illnesses, which might be attributable to environmental contamination from any hazardous waste treatment or land disposal unit at the hazardous waste facility applying for the permit. The purpose of the information in the health profile is to document the potential for exposure from the applicable hazardous waste treatment or land disposal units and to determine whether additional permit controls are necessary for these units to ensure protection of human health beyond the facility property boundaries. One of the following for each applicable unit or combination of units as approved by the department may constitute a health profile for the purposes of this subsection:

A. For combustion units—

(I) The evaluation described in 40 CFR 270.10(I)(1) for hazardous waste combustion units;

(II) An evaluation of the potential risk to human health resulting from both direct and indirect exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation with the initial application; however, the permit shall not be issued until the evaluation is final; or

(III) A Health Evaluation by the Missouri Department of Health and Senior Services requested by the facility according to paragraph (2)(P)4;

B. For other treatment units—

(I) An evaluation of the potential risk to human health resulting from both direct and indirect exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation with the initial application; however, the permit shall not be issued until the evaluation

is final; or

(II) A Health Evaluation by the Missouri Department of Health and Senior Services requested by the facility according to paragraph (2)(P)4.; and

C. For land disposal units—

(I) The information required by 40 CFR 270.10(j);

(II) An evaluation of the potential risk to human health resulting from both direct and indirect exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation with the initial application; however, the permit shall not be issued until the evaluation is final; or

(III) A Health Evaluation by the Missouri Department of Health and Senior Services requested by the facility according to paragraph (2)(P)4.

2. This paragraph sets forth requirements which shall be met subsequent to the initial permit application for hazardous waste treatment and/or land disposal activities.

A. If changes occur after permit issuance that may increase the potential for human exposure to hazardous waste or hazardous constituents from the treatment or land disposal unit, an updated health profile shall be part of a facility application for permit renewal or permit modifications that include addition or modification of a hazardous waste treatment or land disposal unit.

B. Appropriate documentation to be submitted as the updated health profile shall include one (1) of the options set out in subparagraphs (2)(P)1.A. through C., or an update of a previous submittal under those requirements.

3. Additional epidemiological investigations by the Missouri Department of Health and Senior Services may be required if the information provided pursuant to subparagraph (2)(P)2.B. indicates the presence of potentially unacceptable human health risks.

4. A Health Evaluation by the Missouri Department of Health and Senior Services will assess the potential for exposure and adverse health effects to the public from materials released by the applicable hazardous waste units. If the owner or operator chooses to request a Health Evaluation by the Missouri Department of Health and Senior Services to meet the requirements of this subsection, the request shall be submitted with the initial application; however, a permit shall not be issued until the evaluation is final.]

(X) Miscellaneous Units. *(Reserved)* [This subsection sets forth requirements in addition to 40 CFR part 264 subpart X incorporated in this rule.

1. A facility which continuously feeds hazardous waste into the treatment process shall be equipped with an automatic waste feed cutoff or a bypass system that is activated when a malfunction in the treatment process occurs. A bypass system shall return hazardous wastefeed to storage and shall not allow a discharge or release of hazardous waste.

2. Residuals of by-products from a treatment process (for example, sludges, spent resins) shall be analyzed during a trial period to determine the effectiveness of the treatment process.]

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

(A) The [owner/operator] owner or operator shall submit a railcar management plan with the application for a hazardous waste treatment, storage, or disposal facility permit. Permitted facilities that currently accept and/or ship hazardous waste via railcars shall

request a Class I permit modification that requires prior director approval for the railcar management plan according to the procedures defined in **40 CFR 270.42 as incorporated in 10 CSR 25-7.270(1)**. *[within one hundred eighty (180) days of the effective date of this paragraph. Permitted facilities that fail to apply for a permit modification in compliance with this subsection shall cease all operations involved in the acceptance and/or shipment of hazardous waste via railcar. The permitted facility that has fully complied with this subsection has authorization to conduct the operations involved in the acceptance and/or shipment of hazardous waste via railcar, pending action by the director.]*

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

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

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

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

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

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

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

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

A. The **[owner/operator] owner or operator** signs the shipping paper; or

B. The **[owner/operator] owner or operator** signs the manifest; or

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

3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo [2000], that fall within the time period approved in the railcar management plan.

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

5. The **[owner/operator] owner or operator** shall attempt to arrange for the rail carrier to provide the **[owner/operator] owner or operator** a notification detailing when a railcar was picked up

from the facility or when a railcar was delivered to the facility. If the rail carrier declines to enter into such arrangements, the **[owner/operator] owner or operator** must document the refusal in the operating record. The time limitations set forth in this subsection must be documented by recording dates and times in the facility's operating record.

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

(C) The **[owner/operator] owner or operator** shall comply with 40 CFR 264.17, incorporated in this rule, during railcar loading and unloading. Additional specific precautions to be taken shall include facility design, construction, operation and maintenance standards as specified in "Loading and Unloading Operations: Tank Vehicles and Tank Cars" in section 5-4.4.1 of the 1993 Edition of the *National Fire Protection Association Flammable and Combustible Liquids Code* (NFPA 30).

(D) The **[owner/operator] owner or operator** shall provide security for railcars at the facility by utilizing one of the alternatives specified in 40 CFR 264.14(b), as incorporated in this rule. If the **[owner/operator] owner or operator** demonstrates that it is not practical to provide security for railcars at the facility as specified in 40 CFR 264.14(b), incorporated in this rule, railcars shall be secured by locking all fill and drain posts upon receipt of a loaded railcar or upon completion of the **[owner/operator's] owner or operator's** loading procedures. The locks must remain in place until the **[owner/operator] owner or operator** begins unloading procedures or until the rail carrier picks up the loaded or rejected railcar for transport off-site.

(E) In accordance with 40 CFR 264.15, incorporated in this rule, the **[owner/operator] owner or operator** shall inspect railcars and surrounding areas, at least daily, looking for leaks and for deterioration caused by corrosion or other factors.

(F) In accordance with 40 CFR part 264 subpart C and 40 CFR part 264 subpart D, as incorporated in this rule, the **[owner/operator] owner or operator** shall develop preparedness and prevention procedures and a contingency plan for railcars. If the **[owner/operator] owner or operator** has not prepared a Spill Prevention Control and Countermeasures (SPCC) Plan for hazardous waste, then one must be developed that parallels requirements and guidelines as specified in 40 CFR part 112 for oil. At a minimum, the SPCC Plan must include adequate spill response equipment and preventative measures, such as dikes, curbing, and containment systems.

AUTHORITY: sections 260.370, [RSMo Supp. 2010 and sections] 260.390, and 260.395, RSMo [2000] Supp. 2013. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

10 CSR 25-7.265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The commission is amending sections (1), (2), and (3) of the rule.

PURPOSE: There are multiple purposes to this amendment. First of all, the incorporation by reference of 40 CFR part 265 will be updated to the July 1, 2013 edition. In doing so, all changes to part 265 since the date of previous incorporation will be incorporated into the state rules. Second, the Department of Natural Resources has identified numerous changes in this rule that are required by section 260.373, RSMo. This section requires the department to identify rules that are inconsistent with the limitation on rulemaking authority established in this section and to make the necessary changes to the rule text by December 31, 2015. Finally, other changes to this rule are proposed as part of the routine process of making corrections to the rule, eliminating outdated rule text, and making the rules easier to understand, which will reduce the burden on both the department and the regulated community.

(1) The regulations set forth in 40 CFR part 265, July 1, [2010] 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

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

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

[1. This rule does not apply to an owner/operator of an elementary neutralization unit or a wastewater treatment unit receiving only hazardous waste generated on-site or generated by its operator or only one (1) operator if the unit meets the standards set forth in 10 CSR 25-7.270(2)(A)3.;]
[2.]1. This rule does not apply to an [owner/operator] owner

or operator for that portion of or process at the facility which is in compliance with 10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes. (Note: Underground injection wells are prohibited in Missouri by section 577.155, RSMo.); and

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

[4. Hazardous waste which must be managed in a permitted unit (e.g., waste generated on-site and stored beyond the time frames allowed without a permit pursuant to 10 CSR 25-5.262, waste received from off-site, certain hazardous waste fuels, etc.) shall not be stored or managed outside an area or unit which does not have a permit or interim status for that waste for a period which exceeds twenty-four (24) hours. This provision shall not apply to railcars held in areas for handling during the time period allowed by, and managed in accordance with, 10 CSR 25-7.264(3) of this regulation. (Comment: The purpose of this paragraph is to allow the necessary movement of hazardous waste into, out of, and through facilities, and not to evade permit requirements.)]

(B) General Facility Standards. (Reserved) [This subsection sets forth requirements that modify or add to the requirements in 40 CFR part 265 subpart B.

1. In addition to the requirements in 40 CFR 265.12(a) incorporated in this rule, an owner/operator shall submit to the department a separate analysis for each hazardous waste that s/he intends to import. Each analysis shall contain the following information: the foreign generator's name, site address, and telephone number; a list of applicable EPA waste codes and a percentage of each for each hazardous waste; the flash point determined in accordance with 40 CFR 261.21, incorporated by reference in 10 CSR 25-4; a list of reactive waste(s) as defined in 40 CFR 261.23, incorporated by reference in 10 CSR 25-4; and results of toxicity tests conducted in accordance with 40 CFR 261.24, incorporated by reference in 10 CSR 25-4.261, if applicable.

2. 40 CFR 265.15(b)(5) is not incorporated in this rule.]

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

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

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

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

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

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

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

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

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

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

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

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

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

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

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

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

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

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

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

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

(G) Closure and Post-Closure. **(Reserved)** [This subsection sets forth additional requirements to 40 CFR part 265 subpart G, incorporated in this rule.

1. The incorporation by reference of 40 CFR 265.113(d) and (e) does not relieve the owner/operator of his/her responsibility to comply with 10 CSR 80 if a solid waste permit is required under those rules.

2. The owner/operator of a hazardous waste unit which is certifying closure with residues left in place, regardless of the level of treatment to render the residue nonhazardous, shall meet the requirements in 40 CFR 265.116 incorporated in this rule.

3. In addition to requirements in 40 CFR 265.116, when an owner/operator certifies a closure which did not result in removal of hazardous wastes to background levels, the owner/operator shall record, in accordance with state law, a notation on an instrument which is normally examined during title search that will notify, in perpetuity, a potential purchaser of the property that the land has been used to manage hazardous waste.

4. In addition to the requirements in 40 CFR 265.116 and 265.119 as incorporated in this rule, an owner/operator shall submit a notarized statement to the department certifying that the owner/operator has caused the notation(s) to be recorded. The notation(s) shall be recorded with the recorder(s) of deeds in all counties in which the facility or part of the facility is located.]

(H) Financial Assurance Requirements. **(Reserved)** [This subsection sets forth the requirements which modify or add to those requirements in 40 CFR part 265 subpart H.

1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any facility that would be considered a commercial hazardous waste treatment, storage, and disposal facility for purposes of 10 CSR 25-12.020, or any facility that is certified as an R2 resource recovery facility according to 10 CSR 25-9.020, or any facility that receives for remuneration polychlorinated biphenyls (PCB) material or PCB units as defined by 10 CSR 25-13.010.

2. In 40 CFR 265.143(a)(3), incorporated by reference in this rule, delete "the 20 years" and insert in its place "a period of five (5) years."

3. In 40 CFR 265.145(a)(3), incorporated by reference in this rule, delete "the 20 years" and insert in its place "a period of five (5) years."

4. This paragraph modifies the requirements for surety bonds guaranteeing payment into a closure trust fund or post-closure trust fund per 40 CFR 265.143(b) or 40 CFR 265.145(b), incorporated in this rule.

A. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall not cancel, terminate, or fail to renew a surety bond guaranteeing payment into a closure or post-closure trust fund and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation—

(I) The director deems the facility abandoned; or

(II) Interim status is terminated or revoked; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under 11 U.S.C. section 1, et seq.; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as

specified in part (2)(H)4.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bonds guaranteeing payment into a closure trust fund or a post-closure trust fund as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

5. This paragraph modifies the requirements for letters of credit per 40 CFR 265.143(c), incorporated in this rule, 40 CFR 265.145(c), incorporated in this rule, and 40 CFR 265.147(h), incorporated in this rule. Letters of credit shall be issued by a state- or federally-chartered and regulated bank or trust association.

6. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a financial test as specified in 40 CFR 265.143(e), incorporated in this rule, 40 CFR 265.145(e), incorporated in this rule, or 40 CFR 265.147(f), incorporated in this rule.

7. This paragraph modifies the requirements for closure insurance per 40 CFR 265.143(d), incorporated in this rule, post-closure insurance per 40 CFR 265.145(d), incorporated in this rule, liability coverage for sudden accidental occurrences per 40 CFR 265.147(a)(1), incorporated in this rule, and liability coverage for non-sudden accidental occurrences per 40 CFR 265.147(b)(1), incorporated in this rule. Each insurance policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance or is eligible to provide insurance as an excess or surplus lines insurer in Missouri.

8. In 40 CFR 265.143(e), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

9. In 40 CFR 265.145(e), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

10. In 40 CFR 265.147(g), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

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

[1. Container storage areas shall have a containment system that is designed and operated in accordance with paragraph (2)(I)2. of this rule except as provided by paragraph (2)(I)4. of this rule.

2. A containment system shall be designed, maintained, and operated as follows:

A. A containment system shall have a base which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

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

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

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

E. Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

3. The containment system shall also be inspected as part of the weekly inspections required by 40 CFR 265.174, incorporated in this rule.

4. Storage areas that store containers holding only wastes that do not contain free liquids or storage facilities that store less than one thousand kilograms (1,000 kg) of nonacute hazardous waste containing free liquids need not have a containment system described in paragraph (2)(I)2. of this rule provided that—

A. The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

B. The containers are elevated or are otherwise protected from contact with accumulated liquid.

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

6. Container storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N, as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.265(2)(G).]

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

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

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

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

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

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

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

fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

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

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

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

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

(J) Tanks. (Reserved) [This subsection modifies and adds to the incorporation of 40 CFR part 265 subpart J.

1. 40 CFR 264.190(c) is not incorporated by reference.

2. In 40 CFR 265.193(g)(1) incorporated in this rule, delete "or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment." 40 CFR 265.193(g)(2) is not incorporated by reference in this rule. In 40 CFR 265.193(g)(4)(ii) incorporated in this rule, substitute "264.197(b)" for "265.197(b)." For purposes of 40 CFR 265.193(h) incorporated in this rule, "variance" means exception.

3. In 40 CFR 265.196(c) and (c)(2) incorporated in this rule, delete "visible" and "visual." Tank storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.265(2)(G).]

(K) Surface Impoundments. (Reserved) [In addition to the requirements in 40 CFR part 265 subpart K, those surface impoundments which are intended to be closed without removing the hazardous waste shall meet the requirements of 10 CSR 25-7.264(2)(N)1.A. and 40 CFR part 264 subpart N as incorporated in 10 CSR 25-7.264. If the site location for any such impoundment cannot meet these site specific location requirements and contamination exists beyond the liner of the surface impoundment, the owner/operator shall clean up contaminated residues and hazardous constituents to the greatest extent practical during closure. If the department determines, based on the potential impact on human health and the environment, that it is not necessary or not feasible to remove contaminated material down to background concentrations during closure, the owner/operator shall comply with 40 CFR 264.228(b) incorporated in 10 CSR 25-7.264 or shall submit a delisting petition and obtain approval from EPA for that delisting petition pursuant to 40 CFR 260.20 and 40 CFR 260.22 for the contaminated material not removed during closure.]

[(3) This section applies to TSD facilities that accept and/or ship hazardous waste via railroad tank cars (railcars). The owner/operator of a TSD facility shall comply with requirements set forth in 10 CSR 25-7.264(3) and shall submit a rail car management plan for inclusion in their part B permit

application within one hundred eighty (180) days of the effective date of this section.]

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

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

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

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

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

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

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

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

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

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

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

B. The owner or operator signs the manifest; or

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

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

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

5. The owner or operator shall attempt to arrange for the rail carrier to provide the owner or operator a notification detailing when a railcar was picked up from the facility or when a rail-

car was delivered to the facility. If the rail carrier declines to enter into such arrangements, the owner or operator must document the refusal in the operating record. The time limitations set forth in this subsection must be documented by recording dates and times in the facility's operating record.

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

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

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

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

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

AUTHORITY: sections 260.370, [RSMo Supp. 2010 and sections] 260.390, and 260.395, RSMo [2000] Supp. 2013. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or

email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

10 CSR 25-7.266 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. The commission is amending sections (1) and (2) and the authority section of the rule.

PURPOSE: There are multiple purposes to this amendment. First of all, the incorporation by reference of 40 CFR part 266 will be updated to the July 1, 2013 edition. In doing so, all changes to part 266 since the date of previous incorporation will be incorporated into the state rules. Second, the Department of Natural Resources has identified numerous changes in this rule that are required by section 260.373, RSMo. This section requires the department to identify rules that are inconsistent with the limitation on rulemaking authority established in this section and to make the necessary changes to the rule text by December 31, 2015. Finally, other changes to this rule are proposed as part of the routine process of making corrections to the rule, eliminating outdated rule text, and making the rules easier to understand, which will reduce the burden on both the department and the regulated community.

(1) The regulations set forth in 40 CFR part 266, July 1, [2010] 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

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

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

[1. Owners or operators of facilities that store spent batteries before reclaiming them are subject to the following requirements:

A. Notification requirements under section 3010 of RCRA;

B. All applicable provisions in subparts A, B (but not 40 CFR 264.13 (waste analysis)), C, D, E (but not 264.71 or 264.72 (dealing with the use of the manifest and mani-

fest discrepancies)), and F through L of 40 CFR part 264, as incorporated by reference in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2)(A) through 10 CSR 25-7.264(2)(L);

C. All applicable provisions in subparts A, B (but not 40 CFR 265.13 (waste analysis)), C, D, E (but not 265.71 or 265.72 (dealing with the use of the manifest and manifest discrepancies)), and F through L of 40 CFR part 265, as incorporated by reference in 10 CSR 25-7.265(1) and modified in 10 CSR 25-7.265(2)(A) through 10 CSR 25-7.265(2)(L);

D. All applicable provisions in parts 270 and 124 of the CFR, as incorporated by reference in 10 CSR 25-7.270 and 10 CSR 25-8.124. (Note: The language printed at 10 CSR 25-7.266(2)(G)1.A.–D. above was originally incorporated by reference from 40 CFR 266.80(b), 1994 edition. The language is reprinted here because it was mistakenly omitted from subsequent editions of the Code of Federal Regulations.)]

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

[1. 40 CFR 266.100(c)(1) is not incorporated by reference in this rule;]

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

[3. In 40 CFR 266.101(c)(2) incorporated in this rule, replace “paragraph (c)(1)” with “paragraphs (c)(1) and (d)(1)”; and

4. 40 CFR 266.101 is amended by adding a new subsection (d) to 266.101 incorporated in this rule as follows: (d)(1) Treatment facilities. Owners/operators of permitted facilities that thermally, chemically, physically (that is, shredding, grinding, etc.), or biologically treat hazardous waste prior to burning must comply with 10 CSR 25-7.264(2)(X), and owners/operators of interim status facilities that thermally, chemically, physically (that is, shredding, grinding, etc.), or biologically treat hazardous waste prior to burning shall comply with 10 CSR 25-7.265(2)(P) and (Q). Owners/operators of permitted facilities which blend hazardous waste in tanks or containers prior to burning must comply with 10 CSR 25-7.264(2)(J)6., and owners/operators of interim status facilities that blend hazardous waste in tanks or containers prior to burning shall comply with 10 CSR 25-7.265(2)(J).]

[Editor’s Note: Subsection (2)(H) becomes effective December 31, 1993.]

AUTHORITY: sections 260.370, 260.373, [RSMo Supp. 2010 and sections] 260.390, and 260.395, RSMo [2000] Supp. 2013. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission

will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

10 CSR 25-7.268 Land Disposal Restrictions. The commission is amending sections (1) and (2) of the rule.

PURPOSE: There are multiple purposes to this amendment. First of all, the incorporation by reference of 40 CFR part 268 will be updated to the July 1, 2013 edition. In doing so, all changes to part 268 since the date of previous incorporation will be incorporated into the state rules. Second, the Department of Natural Resources has identified numerous changes in this rule that are required by section 260.373, RSMo. This section requires the department to identify rules that are inconsistent with the limitation on rulemaking authority established in this section and to make the necessary changes to the rule text by December 31, 2015. Finally, other changes to this rule are proposed as part of the routine process of making corrections to the rule, eliminating outdated rule text, and making the rules easier to understand, which will reduce the burden on both the department and the regulated community.

(1) The regulations set forth in 40 CFR part 268, July 1, [2010] 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) Persons who generate or transport hazardous waste and [owners/operators] owners or operators of hazardous waste treatment, storage, and disposal facilities shall comply with this section in addition to the regulations in 40 CFR part 268. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to 40 CFR part 268 subpart A are found in subsection (2)(A) of this rule.)

(B) 40 CFR part 268 subpart B, Schedule for Land Disposal Prohibition and Establishment of Treatment Standards. **(Reserved)**, is not incorporated in this rule.]

(C) Prohibitions on Land Disposal. **(Reserved)** [This subsection

sets forth modifications to 40 CFR part 268 subpart C incorporated by reference in section (1) of this rule.

1. The waste specific prohibitions in 40 CFR 268.31 apply to the hazardous wastes identified by EPA hazardous waste numbers F020, F023, and F027 as amended in 10 CSR 25-4.261(2)(D)1.A.–C.

2. The waste specific prohibitions in 40 CFR 268.31 apply to the EPA hazardous waste numbers F020, F021, F022, F023, F026, and F027 as amended in 10 CSR 25-4.261(2)(D)2.

3. The hazardous waste identified by the Missouri hazardous waste number MH02 in 10 CSR 25-4.261(2)(D)3. may be disposed in a landfill or surface impoundment only if that unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2) as incorporated in section (1) of this rule and all other applicable requirements of 10 CSR 25-7.264(1) incorporating by reference 40 CFR part 264 and 10 CSR 25-7.265(1) incorporating by reference 40 CFR part 265.]

(D) Treatment Standards. This subsection sets forth modifications to 40 CFR part 268 subpart D incorporated by reference in section (1) of this rule.

[1. The treatment standards in 40 CFR part 268 subpart D for the hazardous wastes identified by EPA hazardous waste numbers F020, F023, and F027 apply to F020, F023, and F027 hazardous wastes as amended in 10 CSR 25-4.261(2)(D)1.A.–C.

2. The treatment standard in 40 CFR part 268 subpart D for the hazardous wastes identified by EPA hazardous waste numbers F020, F021, F022, F023, F026, and F027 apply to these listed wastes as amended in 10 CSR 25-4.261(2)(D)2.]

[3.]1. The state cannot be delegated the authority from the U.S. EPA to allow the use of alternative treatment methods as provided in 40 CFR 268.42(b) incorporated in this rule. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.42(b) as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with 40 CFR 268.42(b) of the federal hazardous waste management regulations.

[4.]2. The state cannot be delegated the authority from the U.S. EPA to approve variances from treatment standards as provided in 40 CFR 268.44 incorporated in this rule. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.44, as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with 40 CFR 268.44 of the federal hazardous waste management regulations.

AUTHORITY: sections 260.370, 260.390, and 260.395, RSMo Supp. [2010] 2013, and section[s] 260.400, RSMo 2000. Original rule filed Feb. 16, 1990, effective Dec. 31, 1990. For intervening history, please consult the **Code of State Regulations**. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required.

However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

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

PURPOSE: There are multiple purposes to this amendment. First of all, the incorporation by reference of 40 CFR part 270 will be updated to the July 1, 2013 edition. In doing so, all changes to part 270 since the date of previous incorporation will be incorporated into the state rules. Second, the Department of Natural Resources has identified numerous changes in this rule that are required by section 260.373, RSMo. This section requires the department to identify rules that are inconsistent with the limitation on rulemaking authority established in this section and to make the necessary changes to the rule text by December 31, 2015. Finally, other changes to this rule are proposed as part of the routine process of making corrections to the rule, eliminating outdated rule text, and making the rules easier to understand, which will reduce the burden on both the department and the regulated community.

(1) The regulations set forth in 40 CFR part 270, July 1, [2010] 2013, except for the changes made at 70 FR 53453 September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(A) Any federal agency, administrator, regulation, or statute that is referenced in 40 CFR part 270 shall be deleted and the comparable state department, director, rule, or statute as provided in 10 CSR 25-3.260(1)(A) shall be added in its place except as specified in [paragraph (2)(A)6. of] this rule. The additional substitutions or changes noted in this subsection shall also apply.

[1. "Owner/operator" as defined by 10 CSR 25-3.260(2)(O)3. shall be substituted for any reference to "owner and operator" or "owner or operator" in 40 CFR part 270.]

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

subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to 40 CFR part 270 subpart A are found in subsection (2)(A) of this rule.)

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

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

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

[3. A permit is not required under this rule for an elementary neutralization unit or a wastewater treatment unit receiving only hazardous waste that is generated on-site or generated by its operator or only one (1) generator if the owner/operator, upon request, can demonstrate to the satisfaction of the department the following:

A. There is sufficient evidence that the unit is not leaking;

B. The unit is structurally sound and there is no evidence that the unit will fail or collapse;

C. There are no incompatible wastes being placed in the unit;

D. The owner/operator has been and is in compliance with all present and prior permits and authorizations issued to the owner/operator; and

E. There is no evidence of any past releases from the unit.

4. In addition to the requirements in 40 CFR 270.1(b) incorporated in this rule, the owner/operator shall provide state notification to the department within sixty (60) days after the effective date of a state rule that first requires him/her to comply with 10 CSR 25 where that notification is required.

5. (Reserved)

6. In 40 CFR 270.2, substitute "Facility mailing list means the mailing list required of the permittee or applicant in accordance with 10 CSR 25-7.270(2)(B)10." for the definition of "Facility mailing list" given in the incorporated regulation.]

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

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

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

2. Confidentiality may be requested for the information required in 40 CFR 270.13(a)–(m) incorporated in this rule. 10 CSR 25-3.260(1)(B) sets forth requirements for protection of confidential

business information and the availability of information provided under 10 CSR 25. Therefore, 40 CFR 270.12 is not incorporated by reference in this rule.

[3. *The topographic map required in 40 CFR 270.13(I) incorporated in this rule shall also depict surrounding land uses such as residential, commercial, agricultural, and recreational.*

4. *Seismic evaluation requirements for hazardous waste management facility permit applicants. 40 CFR 270.14(b)(11)(i) and (iii) are not incorporated in this rule. An applicant for a hazardous waste management facility permit (excluding post-closure) shall design and construct the facility to withstand stresses due to earthquake loading or certify that the existing facility is able to withstand stresses due to earthquake loading. In the event that the regulated unit cannot withstand stresses, the facility shall certify that a release or situation which will endanger human health and/or the environment is not likely to occur. The applicant shall submit as part of the permit application a certification of the adequacy of the design or the ability of the existing facility to withstand stresses due to earthquake loading. The certification shall consider the location of the facility (e.g., the proximity of the facility to an active seismic zone) and must be completed by a qualified professional engineer registered in Missouri.*

5. *In addition to the topographic map required in 40 CFR 270.14(b)(19) incorporated in this rule, an applicant for a land-based hazardous waste management facility permit shall submit drawings which depict at a minimum—*

- A. *Original contours;*
- B. *Proposed final contours;*
- C. *Original surface water drainage patterns;*
- D. *Proposed final surface water drainage patterns;*
- E. *Layout of the leachate collection system;*
- F. *Layout of the monitoring system;*
- G. *Access roads;*
- H. *Location of soil borings and trenches;*
- I. *Major rock outcrops and sinkholes within the map area;*
- J. *Occupied permanent residential dwelling houses within one-fourth (1/4) mile of the disposal facility boundaries;*

K. *All available information on private and public wells, public water supply lines, and any aquifers, seeps, sinkholes, caves, or mining areas within one-fourth (1/4) mile of the facility; and*

L. *For landfills only, a coordinate system referenced to a benchmark and baseline that have been permanently established on the site and referenced to Government Land Office corners and the legal boundaries of the facility as described by a registered land surveyor licensed by Missouri.]*

[6.]3. *All submitted engineering plans and reports shall be approved by a registered professional engineer licensed by Missouri. The engineering plans and reports shall specify the materials, equipment, construction methods, design standards, and specifications for hazardous waste management facilities, and processes that will be utilized in the construction and operation of the facility. The engineering plans and reports shall also include a diagram of any piping, instrumentation or process flows, and descriptions of any feed systems, safety cutoffs, bypass systems, and pressure controls (for example, vents).*

[7. *The applicant for a hazardous waste facility permit to construct or operate a facility shall submit the application to the department in triplicate (quadruplicate, if application is made for a land-based management facility). If a permit is issued, the permittee shall submit two (2) copies of the entire approved application to the department.]*

[8.]4. *The permit application fee set forth in 10 CSR 25-12.010*

shall be submitted with the application.

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

[10.]6. *The permit application shall include the following information for the purpose of notification:*

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

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

[11. *The applicant shall submit the information required by subsection (2)(H) of this rule in the form of a disclosure statement as part of the permit application.]*

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

[13. *In addition to the requirements in 40 CFR 270.15 incorporated in this rule, an owner/operator of a facility that treats hazardous waste in containers shall meet the requirements in 40 CFR 270.23 incorporated in this rule.*

14. *In addition to the requirements in 40 CFR 270.16 incorporated in this rule, an owner/operator of a facility that treats hazardous waste in a tank system shall meet the requirements in 40 CFR 270.23 incorporated in this rule.*

15. *40 CFR 270.16(h)(2) is not incorporated in this rule.*

16. *An owner/operator who stores, treats, or disposes of hazardous waste in surface impoundments shall provide the following information in addition to the requirements of 40 CFR 270.17 incorporated in this rule: detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment and the design of a double-liner system that incorporates a leak detection system between liners.*

17. *An owner/operator who disposes of hazardous waste in landfills shall provide the following information in addition to the requirements of 40 CFR 270.21 incorporated in this rule:*

A. *Engineering reports which describe the geology and hydrology of the site and demonstrate the site suitability as required in 10 CSR 25-7.264(2)(N)1.;*

B. *Detailed plans and an engineering report addressing the following items:*

(I) *Management of run off from the disposal facility or unit;*

(II) *Minimization of erosion, landslides, and sloughing;*

(III) *Control of horizontal migration of leachate where applicable;*

(IV) *Delineation of a three hundred foot (300') buffer between the property line of the disposal facility and area to be permitted;*

(V) *Control of wind dispersal of waste particulate matter where applicable;*

(VI) *Control of odor dispersal where applicable; and*

(VII) *Control of escape of gases where applicable.*

C. *Detailed plans and engineering report explaining*

the location of the saturated zone in relation to the landfill and the design of a double-liner system that incorporates a leachate collection and removal system above and between the liners; and

D. An explanation of how the volatile waste standards in 10 CSR 25-7.264(2)(N)4. are met.

18. An owner/operator of a hazardous waste treatment facility or operating disposal facility shall submit a health profile as set forth in 10 CSR 25-7.264(2)(P).

19. The person applying for a permit under sections 260.350–260.434, RSMo, shall notify the department in the permit application of any convictions for any acts occurring after July 9, 1990, which would have the effect of limiting competition. The applicant, after submission of the permit application and prior to permit issuance, shall notify the department in writing within thirty (30) days of any conviction for any act which would have the effect of limiting competition.

20. 40 CFR 270.26 is not incorporated in this rule.]

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

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

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

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

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

[B. The applicant may begin construction or alterations at the facility in accordance with the approved plans, reports, design specifications, and procedures after receiving the facility permit. When construction is completed as approved in the permit and the financial requirements of this chapter have been fulfilled, the owner/operator shall submit a written request as required in 40 CFR 270.30(l)(2) incorporated in this rule to the department for authorization to begin operation.

C. If the permit is for a facility operating under interim status, the department may deny authority to operate under the permit if the construction required under the permit is not completed in accordance with the approved plans within the time period specified in the permit or within the time period as extended by the department for cause due to circumstances beyond the permittee's control.]

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

(I) Thirty (30) days after issuance of a letter of authorization pursuant to *[subparagraph (2)(C)1.B. of]* this rule, unless a notice of appeal is filed with the commission within that time;

(II) Thirty (30) days after denial of authorization to operate pursuant to *[subparagraph (2)(C)1.C. of]* this rule, unless a notice of appeal is filed with the commission within that time; or

(III) Upon the issuance of a decision by the commission, after timely appeal of an action *[under subparagraph (2)(C)1.B. or C.]* of this rule.

2. The department may deny the permit application if—

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

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

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

[D. The department determines that the applicant owner/operator is a habitual violator as defined in subsection (2)(H) of this rule;]

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

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

[3. In 40 CFR 270.30(l)(2) introductory text incorporated in this rule, delete “except as provided in 270.42.”

4. The owner/operator of a facility permitted under sections 260.350–260.434, RSMo, shall notify the department in writing of any conviction for any act occurring after July 9, 1990, which would have the effect of limiting competition. This written notification shall be provided within thirty (30) days of the conviction or plea and shall comply with the requirements at subsection (2)(l) of this rule.]

(D) Changes to Permit. **(Reserved)** *[This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart D.*

1. *In addition to the requirements of 40 CFR 270.40(b), the department shall determine, in accordance with subsection (2)(H) of this rule, whether the proposed owner or operator, including an officer or management employee of the proposed owner or operator, is a person described in section 260.395.16, RSMo, and whether any of the conditions specified in section 260.395.17, RSMo, would exist if the proposed transfer were to take place.*

2. *“Revocation and reissuance” of a permit, as that term is used in 40 CFR part 270 incorporated in this rule, shall mean the same as “total modification” as that term is used in 10 CSR 25-8.124.*

3. *The “termination” of a permit, as used in 40 CFR part 270 incorporated in this rule, shall mean the same as “revocation” of a permit as used in 10 CSR 25-8.124.*

4. *The director shall suspend, revoke, or not renew the permit of any person to treat, store, and dispose of hazardous waste if that person has had two (2) or more convictions in any court of the United States or of any state other than Missouri, or two (2) or more convictions within a Missouri court for crimes or criminal acts occurring after July 9, 1990, an element of which involves restraint of trade, price fixing, intimidation of the customers of any person, or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under*

Chapter 260, RSMo, the Resource Conservation and Recovery Act, or similar laws of other states within any five (5)-year period. Convictions by entities which occurred prior to the purchase or acquisition by a permittee shall not be included. The permittee shall submit a written report to the department within thirty (30) days of the conviction or plea. The report shall include information explaining the charge(s) on which the permittee was convicted, the date(s) of the conviction(s), and the date(s) and charge(s) of previous convictions.

5. The owner/operator of a facility that has had his/her permit (issued under the provisions of sections 260.350–260.434, RSMo) revoked under section 260.379, RSMo, may apply to the department for reinstatement of his/her permit after five (5) years have elapsed from the date of the last conviction of crimes or criminal acts as described in section 260.379, RSMo. The application must be in writing and accompanied by a reapplication fee, updated permit application, and any other information the department deems necessary in order to reinstate the permit.

6. 40 CFR 270.42(j)(1) and 40 CFR 270.42(j)(2) are not incorporated in this rule.

7. 40 CFR 270.42(l) is not incorporated into this rule.]

(E) Expiration and Continuation of Permits. **(Reserved)** [The director will review all permits for operating disposal facilities every five (5) years after issuance for conformance with applicable current hazardous waste rules and laws. The permit will be modified as necessary to conform with the applicable rules and laws.]

(G) Interim Status. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart G.

1. An [owner/operator] **owner or operator** who becomes regulated under 10 CSR 25-7 shall operate in compliance with interim status in accordance with paragraph/s (2)(A)4. and] (2)(B)1. of this rule.

2. In addition to the items in 40 CFR 270.73 incorporated in this rule, interim status terminates when the department issues an order or commences an action pursuant to paragraph (2)(G)4. of this rule requiring the [owner/operator] **owner or operator** to cease operations and undertake closure actions at the facility or at a unit.

3. The [owner/operator] **owner or operator**, at any time, [voluntarily] may **voluntarily** submit a permit application pursuant to this rule.

4. Upon a determination by the department that the facility is not being operated or cannot be operated in full compliance with the requirements of 10 CSR 25-7.265, the department, in lieu of or in addition to requiring the submittal of a permit application pursuant to paragraph (2)(G)1. of this rule, may take an enforcement action pursuant to sections 260.410, 260.420, and 260.425, RSMo, as it deems appropriate under the circumstances in order to fully and effectively protect public health and the environment.

(H) **Habitual Violators.** This subsection describes how the department shall determine whether a hazardous waste management facility permit applicant is a habitual violator for purposes of implementing section 260.395.16, RSMo. This subsection applies to the issuance, reissuance, or total modification of hazardous waste management facility permits, excluding post-closure and corrective action only permits, and to hazardous waste resource recovery facilities for the activities subject to permit requirements in 10 CSR 25-7.264.

1. The department shall consider the applicant's prior operating history pursuant to section 260.395.16, RSMo, during the review of an application for a permit to operate a hazardous waste management or commercial polychlorinated biphenyl (PCB) facility. All documentation required by this subsection shall be submitted along with the information specified in 40 CFR part 270 subparts B and D incorporated

by reference in section (1) of this rule and modified in subsection (2)(B) of this rule, paragraph (2)(D)1. of this rule, and 10 CSR 25-13.010(9)(B).

2. Definitions. The definitions in this paragraph apply to subsection (2)(H) of this rule.

A. Facility, for purposes of calculating violations as required in paragraph (2)(H)5. of this rule, means each permitted, licensed interim status, unpermitted or unlicensed hazardous waste management or commercial PCB facility, solid waste disposal area, solid waste processing facility, certified hazardous waste resource recovery facility, or solid or hazardous waste transporter or transfer station.

B. Person, in addition to the definition in section 260.360(17) RSMo, shall mean an officer or management employee of the applicant, any officer or management employee of any corporation or business which owns an interest in the applicant, any officer or management employee of any business in which an interest is owned by any person, corporation, or business which owns an interest in the applicant, or any officer or management employee of any corporation or business in which an interest is owned by the applicant.

C. Management employee means any individual, including a supervisor, who has the authority to serve as an agent for the employer in that the employee has the authority to perform or effectively recommend any one (1) or more of the following actions: hiring, firing, assigning, or directing other employees with respect to waste management operations.

D. Violation means any one (1) or more of the following actions or an equivalent action by this or another regulatory agency or competent authority in response to any violation of the Missouri solid or hazardous waste management law, the solid or hazardous waste management law of another state, or any federal law governing the management of solid waste, hazardous waste, PCB material, or PCB units:

(I) Final administrative order;

(II) Final permit revocation;

(III) Final permit suspension;

(IV) Civil judgment against the applicant;

(V) Criminal conviction; or

(VI) Settlement agreement in connection with a civil action which has been filed in court.

E. Interest, as used in "owning an interest in," means having control of at least seven and one-half percent (7.5%) of an applicant or person as defined in subparagraph (2)(H)2.B. of this rule. This is determined by multiplying the percentages of ownership at each successive level and comparing this result to a seven and one-half percent (7.5%) cutoff level. For city, county, state, federal, and military-owned facilities, interest, or owning an interest in, is defined as one (1) level above or below the facility applying for the permit. (For example, a military-owned facility shall consider one (1) command level above the base on which the facility will be operated as having an interest in the facility. Likewise, the "command" shall consider itself as having an interest in all facilities within the command).

F. Habitual violator means a person who has failed the habitual violator test set out in paragraph (2)(H)5. of this rule.

3. For the purpose of this subsection, any administrative action or order, judgment, or criminal conviction that has been ruled on appeal in favor of the applicant by a final decision of a competent authority will not be considered to be a violation. If the applicant has an appeal pending, the outcome of which will affect the issuance of a permit, the department shall delay issuance of the permit until a final decision is rendered.

4. The permit applicant shall submit the following information on the Habitual Violator Disclosure Statement form provided by the department, incorporated by reference in this rule, and published in the appendix to this rule as part of the permit application:

A. Names and addresses of all persons meeting any of the following criteria:

(I) Any person who owns an interest in the applicant;

(II) Any person in whom an interest is owned by any person who owns an interest in the applicant; and

(III) Any person in whom the applicant owns an interest;

B. A list of all solid waste management, infectious waste management, commercial PCB management and hazardous waste management permits (Part A and Part B), licenses, certifications, or equivalent documents held within the last ten (10) years by the applicant or any person(s) reported under subparagraph (2)(H)4.A. of this rule, for the operation or post-closure of a solid waste management, infectious waste management, commercial PCB or hazardous waste management facility, or a combination of these, as defined in subparagraph (2)(H)2.A. of this rule, in Missouri or in the United States and for each provide the following information:

(I) Permit or identification number;

(II) Type of permit, license, certification, or equivalent document and dates held;

(III) Name(s) of the person(s) to whom each permit, license, certification, or equivalent document was issued;

(IV) Address or location of each facility; and

(V) Issuing agency;

C. The structure of the applicant in relation to any person(s) reported in accordance with subparagraph (2)(H)4.A.;

D. Names and addresses of the officers and management employees of any person(s) reported in accordance with subparagraph (2)(H)4.A.;

E. A list of all violations, including the identification of any action for which an appeal or final judgment is pending, as defined in subparagraph (2)(H)2.D. of this rule cited within ten (10) years preceding the date of the permit application incurred by any persons required to be reported under subparagraph (2)(H)4.A. or (2)(H)4.D. of this rule. Each listing shall include the following information:

(I) Dates of violations;

(II) A brief description of each violation, including the type of regulatory action taken;

(III) Statutory or regulatory references, or both, to each specific statute or administrative rule that was violated;

(IV) Name and location of the facility cited; and

(V) Name and address of the issuing agency, and name and address of any competent authority with final jurisdiction regarding each violation;

F. A brief description of all incidents in which any person(s) reported under subparagraph (2)(H)4.A or (2)(H)4.D. of this rule have been adjudged in contempt of any court order enforcing the provisions of any state's solid or hazardous waste laws, or federal laws pertaining to hazardous waste;

G. A listing of all facilities as defined at (2)(H)2.A. owned or operated by any person required to be reported at (2)(H)4.A. or (2)(H)4.D. A brief justification as to why the facility has been included on the listing; and

H. All other information requested by the department necessary for the department to conduct an evaluation of the overall operating history of the applicant.

5. The habitual violator test.

A. A total of calculated violations shall be determined by the following formula:

Number of violations (as defined in subparagraph (2)(H)2.D. of this rule), occurring within the ten (10) years preceding the date of the permit application, incurred by any person required to be reported under (2)(H)4.A. or (2)(H)4.D., divided by the total number of facilities (as defined in subparagraph (2)(H)2.A. of this rule) equals the number of calculated violations.

$$\frac{\text{Number of Violations}}{\text{Total Number of Facilities}} = \text{Calculated Violations}$$

B. If the total of calculated violations is two (2.0) or less, the applicant has passed the habitual violator test. If the total of calculated violations is greater than two (2.0), the department will notify the applicant of his/her score. Upon receipt of notification, the applicant shall have thirty (30) days to produce clear and convincing evidence to the department which demonstrates that the applicant is not a habitual violator. The department shall determine whether the evidence is clear and convincing for the purpose of the habitual violator determination. If the evidence produced by the applicant is not found to be clear and convincing, or if no evidence is produced, the department will determine the applicant to be a habitual violator, and the department will notify the applicant of permit denial. If the evidence produced by the applicant is found to be clear and convincing, the department may determine that the applicant has not failed the habitual violator test (if the department determines the applicant has failed, a notice of denial will be sent to the applicant by the department) only after the department has considered the following factors:

(I) The nature and severity of violations;

(II) Any substantial realignment of corporate structure or corporate philosophy, or both;

(III) Any significant pattern of improved environmental compliance;

(IV) The complexity of the facilities and the volume of waste handled; and

(V) Any other relevant factors presented as evidence.

6. The department shall deny a permit for failure of the applicant to provide the required information or for submission of false information.

7. The department may deny a permit for failure of the applicant to provide complete information when submission of the information is required by this rule.

8. The department shall deny a permit if the applicant has failed the habitual violator test specified in paragraph (2)(H)5. of this rule.

9. The department shall not issue a permit to an applicant or a person who has offered in person or through an agent any inducement, including any discussion of possible employment opportunities, to any department employee when that person has an application for a permit pending or a permit under review. Distribution of job announcements from an applicant to the department, which are made in the regular course of business and are intended for general dissemination, shall not be considered improper inducements.

10. The department shall deny a permit if any person(s) reported in accordance with subparagraph (2)(H)4.A. or (2)(H)4.D. of this rule has been adjudged in contempt of any court order enforcing the provisions of any state's solid or hazardous waste management laws, or federal laws pertaining to hazardous waste.

11. Any person aggrieved by a permit denial under this

subsection may appeal the decision by filing a petition with the Missouri Hazardous Waste Management Commission within thirty (30) days of notice of denial. The appeal hearing shall be conducted in accordance with section 260.400, RSMo, and 10 CSR 25-8.124(2).

(l) Restraint of Trade.

1. Any person, as defined in section 260.379.1, RSMo, applying for a permit to operate a hazardous waste treatment, storage, or disposal facility shall notify the director of any conviction occurring after July 9, 1990, for any crimes or criminal acts specified in section 260.379, RSMo. The person shall include any crimes or criminal acts for which an appeal or about which a final judgment is pending. The applicant shall submit this information with the permit application. Any person with a permit application pending, or to whom a permit has been granted, shall notify the department within thirty (30) days of the conviction or plea. The information shall be submitted in the form of a disclosure statement worded as specified in paragraph (2)(l)4. and shall include the following information:

- A. Date of conviction or plea;
- B. The specific charge and statutory citation;
- C. Statutory or regulatory references, or both, and citations to each specific statute or administrative rule that was violated;
- D. Name and location of each facility or person cited;
- E. Name and address of the court; and
- F. Any other information requested by the department.

2. The department shall deny, suspend, revoke, or not renew a permit if the applicant or permittee fails to submit the required information, the information submitted is false, or the applicant or permittee exceeds the number of convictions allowed under section 260.379, RSMo.

3. Rehabilitation and reinstatement.

A. A person may apply to the department for reinstatement of a permit that has been revoked under the provisions of subsection (2)(l) of this rule and section 260.379, RSMo, no sooner than five (5) years after revocation. The person shall demonstrate to the department that s/he had no convictions or pleas for any crimes or criminal acts as specified in section 260.379, RSMo, in any court in any state, or any federal court, within five (5) years preceding the request for reinstatement. The person shall also prove that no litigation or appeal is pending against the person for any crimes or criminal acts specified in section 260.379, RSMo.

B. If the permit is reinstated, the permittee, for a period of five (5) years from the date of reinstatement, shall file semi-annual disclosure statements prepared in accordance with the requirements of this subsection (2)(l).

C. If any conviction or plea for the acts specified in section 260.379, RSMo, is entered in any court in any state during the five (5)-year period immediately following reinstatement, the reinstated permit shall be revoked for a period of at least five (5) years. Following this five (5)-year period, the person may reapply for reinstatement of the permit.

4. The disclosure statement specified in paragraph (2)(l)1. of this rule shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information, and the parentheses deleted:

(Name of permit applicant) (insert, "EPA Identification Number _____," if applicable) hereby certifies that the following list contains all instances in which any person, as defined by section 260.379.1, RSMo, has been convicted or pled to any crimes or criminal acts an element of which involves restraint of trade, price-fixing, intimidation of the customers of any person, or for engaging in any other acts

which may have the effect of restraining or limiting competition concerning activities regulated under Chapter 260, RSMo, or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition, shall not be included. (For each conviction or plea required to be reported, provide a listing of the information required in 10 CSR 25-7.270(2)(l)1.A.-F. If no conviction or plea is required to be reported, so state.)

I hereby certify the following:

a) The above information is complete and truthful as of the date this statement was signed;

b) The wording of this disclosure statement is identical to the wording specified in 10 CSR 25-7.270(2)(l)4. on the date this statement was signed; and

c) In such matters, I, the undersigned, do have the authority to act as agent for the permit applicant.

(Signature)

(Name)

(Title)

(Date)

(Seal)

(Notary seal and signature)]

AUTHORITY: sections 260.370, 260.373, [RSMo Supp. 2010 and sections] 260.390, and 260.395, RSMo [2000] Supp. 2013. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the *Code of State Regulations*. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

10 CSR 25-8.124 Procedures for Decision Making. The commission is amending the purpose statement of the rule.

PURPOSE: The purpose of this amendment is to remove a reference to a specific edition of the Code of Federal Regulations. By removing this date, the statement will accurately reflect the fact that, unlike other rules in Title 10, Division 25 of the Code of State Regulations, this rule is a standalone rule and does not incorporate by reference a corresponding regulation from the Code of Federal Regulations. As a standalone rule, although it reflects similar requirements found in Title 40, Part 124 of the Code of Federal Regulations, those regulations are not incorporated by reference. The commission is amending only the purpose statement of the rule.

PURPOSE: This rule reflects the requirements of the federal regulations in 40 CFR part 124 [July 1, 2010], with modifications and additional requirements established by the **Revised Statutes of Missouri**. This rule establishes the requirements for public notice and public participation in the issuance, denial, modification, and revocation of hazardous waste management facility permits, appeal hearings, variance petitions, and closure and post-closure activities. This rule also specifies procedures for the issuance, modification, and revocation of resource recovery facility certifications and the issuance and revocation of transporter licenses.

AUTHORITY: section 260.370, RSMo Supp. [2010] 2013, and sections 260.400, 260.405, and 260.437, RSMo 2000. Original rule filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Amended: Filed April 15, 2011, effective Dec. 30, 2011. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

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

PROPOSED AMENDMENT

10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes. The commission is amending sections (1), (2), and (3) and the authority section of the rule.

PURPOSE: As a result of changes being proposed to other rules in Title 10, Division 25 of the Code of State Regulations, corresponding

changes are necessary to this rule to implement the changes being made to those other rules as this rule includes terms and references that are being amended in other rules.

(1) Applicability.

(A) This rule applies to [the] owners[] and operators of [the facility which] facilities that reclaim/s) or reuse/s) hazardous waste defined or listed in 10 CSR 25-4.261 for materials, or transforms hazardous waste into new products which are not hazardous waste. This rule does not apply to facilities managing recyclable materials used for precious metal recovery in accordance with 40 CFR 266.70 as incorporated by reference in 10 CSR 25-7.266(1), and hazardous waste processes required to be permitted in accordance with 40 CFR part 264 subpart M, O, or X as incorporated in 10 CSR 25-7.264 or 40 CFR part 266 subpart H as incorporated in 10 CSR 25-7.266. This rule does not apply to the owner[] or operator of a totally enclosed treatment facility referenced in 40 CFR 264.1(g)(5) incorporated by reference in 10 CSR 25-7.264(1) and 40 CFR 265.1(c)(9) incorporated by reference in 10 CSR 25-7.265(1). A certification is not required under this rule for the owner[] or operator of a facility managing used oil in accordance with 40 CFR part 279 as incorporated in 10 CSR 25-11.279(1). Hazardous waste shall be stored in accordance with 10 CSR 25-5.262—10 CSR 25-12.010/9.020.

1. A generator, not exempted by section (2) of this rule, who utilizes a certified resource recovery facility shall comply with 10 CSR 25-5.262 but is exempt from certain generator fees and taxes to the extent specified in 10 CSR 25-12.

2. Transportation of hazardous waste to a resource recovery facility shall be in compliance with 10 CSR 25-6.

3. The owner[] or operator of a facility which uses, reuses, legitimately recycles, or reclaims hazardous waste shall apply for and operate in accordance with a resource recovery facility certification issued by the department except as provided otherwise in this rule.

4. [The owner/operator of a facility that recycles hazardous wastes in units defined in 10 CSR 25-7.264(2)(AA) and (BB) and 10 CSR 25-7.265(2)(AA) and (BB), and is subject to the permitting requirements in 10 CSR 25-7.270 shall comply with 10 CSR 25-7.264(2)(AA) and (BB), and 10 CSR 25-7.265(2)(AA) and (BB).] The owner or operator of a resource recovery facility that is subject to permitting requirements in 40 CFR part 270, incorporated by reference in 10 CSR 25-7.270(1), and that recycles hazardous wastes in units subject to 40 CFR part 264 subparts (AA) and (BB) or 40 CFR part 265 subparts (AA) and (BB) shall comply with all applicable requirements from those parts and subparts.

5. The owner[] or operator of a facility exempt from permitting requirements in 40 CFR part 266 subpart H, as incorporated in 10 CSR 25-7.266(1), that recycles materials used for precious metal recovery in units defined in 40 CFR 266.100, as incorporated in 10 CSR 25-7.266(1), shall comply with the requirements in 40 CFR 266.100(f)/112 as incorporated in 10 CSR 25-7.266(1).

(2) Exempt Resource Recovery Facilities.

(B) Exempt resource recovery facilities shall notify the Missouri Department of Natural Resources (MDNR), Hazardous Waste Program, P./O./ Box 176, Jefferson City, MO 65102 of their resource recovery activities. This notification shall identify the owner[] and operator, the name and location of the facility, an identification of the waste(s) recovered, method(s) of recovery, and approximate annual quantity of waste recovered.

(3) The owner[] or operator of a facility which uses, reuses, legitimately recycles, or reclaims hazardous waste and is not exempted from certification requirements under section (2) of this rule shall apply for and operate in accordance with a resource recovery facility certification issued by the department.

(A) Based on the hazardous wastes accepted and the method of

management, resource recovery facilities not exempted under section (2) will be certified as a U, R1, or R2 facility. This designation will be made as follows:

1. U—This classification applies to facilities that use, reuse, legitimately reclaim, or recycle more than one thousand kilograms (1000 kg) of hazardous waste on-site in a calendar month;

2. R1—This classification applies to *[the]* owners// and operators of mobile recycling processes that recycle/s/ hazardous waste for reuse at the site of generation and does not involve the recycling of hazardous waste to be reused off-site of generation; and

3. R2—This classification applies to a facility which accepts hazardous waste from off-site.

A. R2 facilities must meet and provide verification of adequate financial assurances to close the resource recovery facility in accordance with paragraphs (3)(C)3. and 4. of this rule.

B. *(Reserved)*

(B) The owner// or operator of a resource recovery facility not exempt under subsection (2)(A) of this rule, shall submit an application to the department for a resource recovery facility certificate which includes, as applicable, the following information:

1. A certified resource recovery facility application form provided by the department and completed according to directions;

2. A flowsheet depicting the flow of waste throughout the process. The flowsheet shall commence at the point of generation of the MDNR waste and shall continue through the reclamation process;

3. A quality control plan which includes the following unless determined by the department not to be applicable:

A. A plan to insure that the quality and type of waste processed are compatible with the successful operation of the resource recovery unit so that—

(I) Specific waste streams are defined in this plan;

(II) Test results are maintained at the facility for a period of at least three (3) years; and

(III) A contingency plan is formulated for incoming shipments which do not meet the specified limitations provided;

B. A plan outlining all tests performed on the product of the reclamation unit(s); and

C. A plan for treatment or disposal, or both, of any residues generated as a result of the process;

4. A legible drawing having a scale adequate to delineate the following:

A. The boundary of the facility;

B. The different facility segments or processes which generate hazardous waste(s);

C. Areas where hazardous waste is stored;

D. The location(s) of resource recovery unit(s) or process(es), or both;

E. Areas where the reclaimed product of the facility is stored; and

F. Any spill control equipment located at the facility; and

5. Identification of emergency response procedures and capabilities at the facility.

(C) In addition to the requirements in subsection (3)(B) of this rule, the owner// or operator of an R2 facility shall comply with the following:

1. Submit a sampling and analysis plan for incoming shipments to assure that the quality and type of wastes accepted are compatible with the successful operation of the facility;

2. Maintain a daily log which indicates the manifest number associated with each hazardous waste received and the immediate disposition of those wastes as part of its operating record in compliance with paragraph (3)(E)5. of this rule. The analytical data obtained as a result of the sampling and analysis plan shall correspond directly with the manifest;

3. Provide a closure plan and cost estimate for closure of the resource recovery activity at the facility prepared in accordance with **40 CFR part 264 subpart G, incorporated by reference in 10 CSR**

25-7.264/(2)(G)(1); and

4. Provide, as specified in **40 CFR 264 subpart H, as incorporated by reference in 10 CSR 25-7.264(1)**, a financial assurance mechanism to cover the closure cost estimate.

(D) The owner// or operator of a certified resource recovery facility shall submit a complete application for renewal of certification or a notification of intent to cease operations and close at least ninety (90) days prior to expiration of the prior certification. The owner// or operator of a proposed non-exempt resource recovery facility shall submit a complete application at least ninety (90) days prior to construction and operation of the facility. Upon receipt of a complete application, the department will have ninety (90) days to issue a certificate for operation or to reject the application for stated cause. The resource recovery certification may be issued for no longer than two (2) years. The applicant may appeal the decision in accordance with 10 CSR 25-8. Operation of the resource recovery facility shall not occur until the resource recovery certification has been issued.

(E) Operating Standards for All Certified Resource Recovery Facilities.

1. At least sixty (60) days prior to a major change at the resource recovery facility, the owner// or operator of the certified resource recovery facility shall submit a written request to the department for approval of that change. A major change shall include, but not be limited to, a change in a recovery process, the addition of a new recovery process, a ten percent (10%) or greater increase in the monthly quantity of any hazardous waste recovered, a change in ownership or operational control, or the closure of a resource recovery unit.

A. If any reclamation unit is removed from use, a plan addressing the disposition of the unit and the hazardous waste shall accompany the written request.

B. Within thirty (30) days after closure of any resource recovery unit, the owner// or operator must submit written notice to the department that the resource recovery unit has been closed and all hazardous waste or hazardous waste residue which was not recovered or recycled prior to the closure was disposed of in accordance with 10 CSR 25-3—10 CSR 25-7.

2. The owner// or operator shall submit a written request to the department for approval of a minor change at least thirty (30) days prior to the change. A minor change shall include, but not be limited to, the addition or deletion of a recyclable waste stream or a change in the operational procedures of the recycling process.

3. The owner// or operator shall maintain a copy of the certification and all approved modifications in an orderly manner at the facility. Modification of the resource recovery facility shall not occur until approval has been obtained from the department. The owner// or operator shall operate in accordance with the certification as it was approved or modified by the department.

4. The owner// or operator shall comply with manifest system requirements in 40 CFR 264.71 and 264.72 as incorporated in 10 CSR 25-7.264(1).

5. The owner// or operator shall comply with requirements for the operating record in *[10 CSR 25-7.264(2)(E)2. and]* 40 CFR 264.73(b)(1) and (2) as incorporated in 10 CSR 25-7.264(1).

6. The owner// or operator shall comply with reporting requirements in 10 CSR 25-7.264(2)(E)/3./2. and 40 CFR 264.76 as incorporated in 10 CSR 25-7.264(1).

7. Storage of hazardous waste as defined in 10 CSR 25-4.261, prior to resource recovery, does not require a permit or interim status pursuant to 10 CSR 25-7 if the following conditions are met:

A. Interim status or a permit for this storage is not required under 40 CFR part 270 as incorporated in 10 CSR 25-7.270(1);

B. Still bottoms produced from resource recovery processes may be stored in accordance with *[the satellite accumulation provisions of 10 CSR 25-5.262(2)(C)3.]* **40 CFR part 262, incorporated by reference in 10 CSR 25-5.262(1)**, until necessary to move to a storage area prior to shipment or disposal, or both. Once satellite accumulation ends, the facility has ninety (90) days to ship or dispose, or both, of the still bottoms, irrespective of any accumulation times of

the waste solvents prior to reclamation; and

C. Storage of hazardous waste shall be in compliance with 10 CSR 25-5—10 CSR 25-9.020. (Note: Underground storage tanks may need to meet additional requirements (that is, 40 CFR part 280) as directed by the United States Environmental Protection Agency and the MDNR [Water Pollution Control] Hazardous Waste Program.)

AUTHORITY: sections 260.370, 260.373, 260.395, RSMo Supp. 2013, and section 260.437, RSMo 2000. Original rule filed Feb. 16, 1990, effective Dec. 31, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 11—Used Oil**

PROPOSED AMENDMENT

10 CSR 25-11.279 Recycled Used Oil Management Standards.
The commission is amending sections (1) and (2) of the rule.

PURPOSE: The first reason for this amendment is to update the incorporation by reference of 40 CFR part 279 from the July 1, 2010 edition to the July 1, 2013 edition. In doing so, all changes to part 279 during this time period will be incorporated into the state rules. Second, there are some minor changes to this rule that are necessary as a result of the changes that are being proposed to other rules in Title 10, Division 25 of the Code of State Regulations, including the deletion of some text in this rule in order to be consistent with the proposed changes to those other chapters and renumbering the rule text accordingly.

(1) The regulations set forth in 40 CFR parts 110.1, 112, and 279, July 1, [2010] 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth

in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) This section sets forth specific modification to 40 CFR part 279, incorporated by reference in section (1) of this rule. A person managing used oil shall comply with this section in addition to the regulations in 40 CFR part 279. In the case of contradictory or conflicting requirements, the more stringent shall control. (Comment: This section has been organized so that Missouri additions, changes, or deletions to a particular lettered subpart in 40 CFR part 279 are noted in the corresponding lettered subsection of this section. For example, changes to 40 CFR part 279 subpart A are found in subsection (2)(A) of this rule.)

(A) Definitions. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart A.

1. The definition of do-it-yourself used oil collection center at 40 CFR 279.1 is amended to allow these sites or facilities to accept/aggregate and store used oil collected from household do-it-yourselfers and farmers not regulated by 40 CFR part 279 subpart C as incorporated in this rule.

2. The definition of used oil at 40 CFR 279.1 is amended as follows:

A. Used oil includes, but is not limited to, petroleum-derived and synthetic oils which have been spilled into the environment or used for lubrication/cutting oil, heat transfer, hydraulic power, or insulation in dielectric transformers[;].

[B. Used oil does not include petroleum-derived or synthetic oils which have been used as solvents. (Note: Used ethylene glycol is not regulated as used oil under this chapter.); and]

[C. Except for used oil that meets the used oil specifications found in 40 CFR 279.11, any amount of used oil that exhibits a hazardous characteristic and is released into the environment is a hazardous waste and shall be managed in compliance with the requirements of 10 CSR 25, Chapters 3, 4, 5, 6, 7, 8, 9, and 13. Any exclusions from the definition of solid waste or hazardous waste will apply.]

3. The definition of “used oil aggregation point” at 40 CFR 279.1 is amended to allow these sites or facilities to accept/aggregate and store used oil from household do-it-yourselfers and farmers not regulated by 40 CFR part 279 subpart C as incorporated in this rule.

4. The definition of used oil collection center at 40 CFR 279.1 is amended to allow these centers to accept/aggregate and store used oil from household do-it-yourselfers and farmers not regulated by 40 CFR part 279 subpart C as incorporated in this rule.

(B) Applicability. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart B.

[1. 40 CFR 279.10(b)(2) is not incorporated in this rule.

2. Mixtures of used oil and hazardous waste are subject to the following:

A. Except as provided for in subparagraphs (2)(B)2.B. and C. of this rule, used oil that is mixed with hazardous waste shall be handled according to 10 CSR 25-3, 4, 5, 6, 7, 8, 9, and 13;

B. Used oil that is mixed with hazardous waste that solely exhibits the characteristic of ignitability or is mixed with a listed hazardous waste that is listed solely because it exhibits the characteristic of ignitability shall be managed as a used oil; provided that the subsequent mixture does not exhibit the characteristic of ignitability; and

C. A generator who generates and accumulates hazardous waste in amounts less than those described in 10 CSR 25-3.260(1)(A)25. shall handle mixtures of used oil with hazardous waste as a used oil.]

[3.]1. 40 CFR 279.10(c) is modified as follows. Used oil drained or removed from materials containing or otherwise contaminated with used oil shall be managed as a hazardous waste if the used oil exhibits a hazardous characteristic. Any exclusions from the

definition of solid waste or hazardous waste will apply.

[4.]2. In 40 CFR 279.10(f), incorporated by reference in this rule, delete “subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewaters at facilities which have eliminated the discharge of wastewater)” and in its place substitute “regulated under Chapter 644, RSMo, the Missouri Clean Water Law.”

[5.]3. In addition to the prohibitions of 40 CFR 279.12, incorporated by reference in this rule, the following shall apply:

A. All used oil is prohibited from disposal in a solid waste disposal area; and

B. Used oil shall not be disposed of into the environment or cause a public nuisance.

(D) Standards for Used Oil Collection Centers and Aggregation Points. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart D.

1. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points owned by the generator may accept used oil from farmers not regulated under 40 CFR part 279 subpart C.

2. In addition to the requirements of 40 CFR part 279 subpart D, do-it-yourselfer used oil collection centers, used oil aggregation points, and used oil collection centers shall notify the solid waste district in which they operate or the department’s Hazardous Waste Program of their used oil collection activities.

A. Notification shall be by letter and shall include the following:

(I) The name and location of the collection center;

(II) The name and telephone number of the owner[/] or operator;

(III) The name and telephone number of the facility contact, if different from the owner[/] or operator;

(IV) The type of collection center; and

(V) The dates and hours of operation.

B. The notification submitted by a used oil collection center will satisfy the requirement of 40 CFR 279.31(b)(2) that the used oil collection center be recognized by the state.

C. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points shall notify the solid waste district in which they operate or the department’s Hazardous Waste Program when their used oil collection activities cease.

D. The notifications to operate or cease to operate received by a solid waste district shall be transmitted to the department’s Hazardous Waste Program for public information purposes or be incorporated in the information submitted to the department as part of their regular reporting requirements.

3. No quantity of used oil collected by do-it-yourselfer oil collection centers, used oil collection centers, and used oil aggregation points shall be stored for more than twelve (12) months at the collection center or aggregation point.

4. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

5. Used oil collection centers, do-it-yourselfer used oil collection centers, and used oil aggregation points shall have a means of controlling public access to the used oil storage area.

A. Access control may be an artificial or natural barrier which completely surrounds the storage area or access control may be achieved by storing the used oil inside a locked building.

B. An attendant shall be present when the public has access to the do-it-yourselfer used oil collection center, used oil collection center, and used oil aggregation point. No public access shall be allowed to the stored used oil when the collection center or aggregation point is unattended.

(I) Standards for Use as a Dust Suppressant and Disposal of Used Oil. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart I.

1. 40 CFR 279.81 is not incorporated in this rule. Instead of the requirements in 40 CFR 279.81, the following shall apply:

A. Used oil that cannot be or is not intended to be recycled in accordance with this rule shall be managed in accordance with 10 CSR 25-5, 6, 7, 9, and 13, and release of even non-hazardous used oil into the environment is prohibited[; and].

[B. Used oil that cannot be or is not intended to be recycled in accordance with this rule shall be assigned the Missouri waste code number D098.]

2. The use of used oil as a dust suppressant on a road, parking lot, driveway, or other similar surface is prohibited.

3. 40 CFR 279.82 is not incorporated in this rule.

AUTHORITY: section 260.370, RSMo Supp. [2010] 2013. Original rule filed Jan. 5, 1994, effective Aug. 28, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 25—Hazardous Waste Management Commission Chapter 13—Polychlorinated Biphenyls

PROPOSED AMENDMENT

10 CSR 25-13.010 Polychlorinated Biphenyls. The commission is amending sections (1), (2), (3), (4), (6), (7), (8), (9), and (10) of the rule.

PURPOSE: The first reason for this amendment is to update the incorporation by reference of 40 CFR part 279 from the July 1, 2010 edition to the July 1, 2013 edition. In doing so, all changes to part 279 during this time period will be incorporated into the state rules. Second, there are some minor changes to this rule that are necessary as a result of the changes that are being proposed to other rules in Title 10, Division 25 of the Code of State Regulations, including the deletion of some text in this rule in order to be consistent with the proposed changes to those other chapters and renumbering the rule text accordingly.

(1) The regulations set forth in 40 CFR parts 761.3, 761.30(a)(2)(v),

761.60(b)(1)(i)(B), 761.60(g), 761.65(b), 761.71, 761.79, 761.72, and 761.180(b), July 1, *[2010]* 2013, as published by the Office of Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) Applicability.

(B) *[Waste]* Used oil containing PCBs at a concentration of less than fifty parts per million (50 ppm) and not otherwise meeting the definition of PCB material shall be managed in accordance with 10 CSR 25-11.

(3) Definitions and Substitution of Terms. This section supplements and modifies the definitions in 10 CSR 25-3 and 10 CSR 25-7.

(A) Additional Definitions.

1. Consignor means an owner// or operator who transfers control of a shipment of PCB material, PCB units, or both to a transporter for conveyance to a Missouri PCB facility.

2. High efficiency boiler means one of the following: a boiler which meets the requirements of 40 CFR 761.71(a) or a boiler that has been approved by Environmental Protection Agency (EPA) under 40 CFR 761.71(b). PCB facility owners// or operators shall not destroy PCBs in concentrations exceeding five hundred parts per million (500 ppm) in a high efficiency boiler.

3. A facility is in operation if all components of the facility necessary for it to function as a PCB facility have been completely constructed, the facility is functioning as a PCB facility and the facility owner// or operator has received remuneration for such function at the facility.

4. Large PCB unit means a PCB unit weighing in excess of one hundred pounds (100 lbs.), not including the weight of any PCB material contained within the PCB unit.

5. PCB-contaminated metals reclamation incinerator means a thermal treatment unit which is utilized to remove organic material and residual PCBs from PCB units which formerly contained PCBs at concentrations of less than five hundred parts per million (500 ppm).

6. PCB(s) means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contain this substance.

7. A PCB facility is one which accepts PCB material, PCB units, or both for brokerage, treatment, storage, or disposal on a commercial basis for remuneration.

8. PCB incinerator means an engineered device using controlled flame combustion to thermally degrade PCB material, PCB units, or both that is not classified as a high efficiency boiler or a PCB-contaminated metals reclamation incinerator.

9. PCB material is defined as any waste chemical substance that is known or assumed to contain equal to or greater than fifty parts per million (50 ppm) PCBs, or any mixture of a waste chemical substance that is known or assumed to contain equal to or greater than fifty parts per million (50 ppm) PCBs with a chemical substance containing less than fifty parts per million (50 ppm) PCBs. Unless tested in accordance with 40 CFR 761.60(g), oil in or from electrical equipment (except circuit breakers, reclosers, and cable) for which the PCB concentration is unknown must be assumed to contain equal to or greater than fifty parts per million (50 ppm) PCBs.

10. PCB units are defined as any waste manufactured item which contains or did contain PCB material, excluding the following PCB articles and PCB containers:

A. Small capacitors that remain as components of waste manufactured items;

B. PCB articles containing PCBs at concentrations of less

than five hundred parts per million (500 ppm), provided that the article is first drained of all free-flowing liquids, filled with a solvent that readily solubilizes PCBs (for example, kerosene, toluene), allowed to stand for at least eighteen (18) hours and then drained thoroughly;

C. PCB articles containing PCBs at concentrations of less than five hundred parts per million (500 ppm), provided that the article is first drained of all free-flowing liquids and then thermally treated for the purpose of degrading the residual PCBs and combustible material. *[(Note: Minimum technical standards for thermal treatment of PCB articles are set forth in subsection (11)(A) of this rule.)]*;

D. PCB containers that are decontaminated in accordance with 40 CFR 761.79;

E. PCB articles and PCB containers which have internal and external surfaces that have been decontaminated to less than ten micrograms (10 µg) PCBs per one hundred centimeters squared (100 cm²) surface area;

F. Electrical equipment that has been reclassified to non-PCB status pursuant to 40 CFR 761.30(a)(2)(v); and

G. PCB articles and PCB containers that are decontaminated by an alternate method, if approved by the department.

11. Treatment means any method, technique, or process, including degreasing, designed to change the physical, chemical, or biological character or composition of any PCB material or PCB units so as to recover energy or material resources from the waste or render the waste nontoxic or less toxic, to render the waste safer for transportation, storage, or disposal or to make the waste more suitable for recovery, storage, or volume reduction.

(4) Manifesting, Record Keeping, and Reporting.

(B) Manifests. **All shipments destined to or originating from a Missouri PCB facility shall meet the requirements of 40 CFR 761.207 through 40 CFR 761.219. Any required reports shall be submitted to the department as well as to the EPA Regional Administrator. [All shipments destined to or originating from a Missouri PCB facility shall use EPA's Uniform Hazardous Waste Manifest. The owner/ operator of a Missouri PCB facility who ships PCB material, PCB units, or both off-site for treatment, storage, or disposal shall comply with the following requirements:**

1. *The owner/operator of a Missouri PCB facility shall contract with the designated facility to return the completed manifest to the Missouri PCB facility within thirty-five (35) days after the date the waste was accepted by the initial transporter;*

2. *An owner/operator of a Missouri PCB facility who does not receive a copy of the PCB manifest with a handwritten signature of the owner/operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter shall contact the transporter, the owner/operator of the designated facility, or both, to determine the status of the consignment;*

3. *An owner/operator of a Missouri PCB facility who has not received the completed manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five (35) days from the date the waste was accepted by the initial transporter shall submit a completed exception report to the department within forty-five (45) days from the date the waste was accepted by the initial transporter; and*

4. *The exception report shall include the following: the name, address, and telephone number of the Missouri PCB facility; the name, address, and telephone number and Missouri transporter license number for each transporter; the name, address, and telephone number of the designated facility; the manifest document numbers followed by the date of shipment; the waste description and the PCB identification*

number(s); the total quantity of PCB material, PCB units, or both, and the appropriate abbreviation for units of measure as follows: G—gallons (liquids only); P—pounds; T—tons (2,000 lbs.); Y—cubic yards; L—liters (liquid only); K—kilograms; M—metric tons (1,000 kg); N—cubic meters; the following certification statement, signed and dated by an authorized representative of the Missouri PCB facility: “I have personally examined and am familiar with the information submitted on this form. I hereby certify that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information which include fine and imprisonment”; a legible copy of the manifest document originated by the Missouri PCB facility and signed by the initial transporter which was retained by the Missouri PCB facility and for which the Missouri PCB facility does not have confirmation of delivery; and a cover letter signed by the facility owner/ or operator or his/her authorized representative explaining the efforts taken to locate the PCB material, PCB units, or both, and the results of those efforts.]

(D) Reporting Requirements. The owner// or operator of a PCB facility shall submit the following reports to the department:

1. The owner// or operator shall submit an annual report by July 15 of each year that covers the previous calendar year. The annual report shall be prepared in accordance with 40 CFR 761.180(b).

2. The owner// or operator shall complete and submit, within forty-five (45) days after the end of each calendar quarter, a quarterly report that includes the following information:

- A. The name, address, and phone number of the facility;
- B. The quarter for which the report is prepared;
- C. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) received during the quarter. For the purpose of this report, any dielectric fluid drained from electrical equipment shall be designated as M001 or M004, as applicable;
- D. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) generated on-site;
- E. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) treated on-site and the method of treatment;
- F. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) transferred to other treatment, storage, or disposal facilities. A summary shall be prepared for each individual facility utilized and shall include a list of shipping dates and the method of final disposition;
- G. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) retained at the facility at the end of the reporting quarter;

H. In chronological order, a copy of each PCB manifest received during the reporting quarter;

I. In chronological order, all completed manifests utilized for off-site shipments during that calendar quarter; and

J. A certification which reads: “CERTIFICATION: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete for the quarterly accounting of PCB material so handled, and the operations of the facility referenced herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.” The original signature of the owner// or operator shall follow this certification.

(E) Operating Record. The owner// or operator of a PCB facility shall maintain a written operating record. This subsection sets forth record keeping requirements for storage and transfer operations. A PCB facility shall also comply with the applicable record keeping

requirements set forth in sections (7) and (8) of this rule. The information required in this subsection shall be recorded, as it becomes available, and maintained in the operating record of the facility until closure of the facility.

1. When PCB material is transferred from a PCB article or PCB container to a PCB container (for example, bulk tank or drum), the owner// or operator shall record the following information:

- A. The date of transfer;
- B. The quantity of PCB material transferred;
- C. The appropriate PCB identification number or some other reference to the type of material and PCB concentration;
- D. Identification of the container into which the PCBs were transferred; and
- E. The manifest document number from the manifest that accompanied the consignment or some other type of cross reference to the manifest document number.

2. When PCB material is transferred from a bulk tank to a tank truck, the owner// or operator shall record information that indicates—

- A. The date transported;
- B. The tank identification and tank level or the quantity of PCB material removed from the tank; and
- C. The manifest document number(s) associated with the off-site shipment(s).

(6) Provisionally Regulated PCB Facilities.

(B) The owners// or operators of provisionally regulated PCB facilities shall comply with the following:

1. Notification. The facility owner// or operator shall submit a notification letter to the department prior to commencing operation as a PCB facility. The notification letter shall include the following information:

- A. The facility name, address, and telephone number; and
- B. A description of the existing and proposed treatment and storage methods and capacities;

2. Manifesting. PCB articles that are transported to a facility for the purpose of servicing need not be accompanied by a manifest; and

3. Owners// or operators of PCB-contaminated metals reclamation incinerators shall meet the minimum technical standards in subsection (12)(A) of this rule.

(D) The owner// or operator of a provisionally regulated PCB facility who fails to operate within the criteria of subsection (6)(A) of this rule or who fails to comply with the requirements of subsection (6)(B) of this rule may be required to meet any or all of the requirements of this rule.

(7) Mobile Treatment Units.

(B) MTUs are exempt from sections (4), (8), (9), and (10) of this rule provided that—

1. The owner// or operator of an EPA approved MTU submits a copy of the MTU’s EPA approval to the department at least thirty (30) days prior to initial operation in Missouri;

2. The owner// or operator of an MTU that does not require an EPA approval submits a detailed description of his/her process at least thirty (30) days prior to initial operation in Missouri;

3. The owner// or operator of an MTU that is not providing a transformer reclassification service cannot operate for more than twenty (20) consecutive working days at any given job site without prior written approval of the department;

4. The owner// or operator of an MTU that is providing a transformer reclassification service cannot operate at any given job site for more than one hundred eighty (180) days without prior written approval from the department; and

5. The owner// or operator submits a site-specific notification to the department prior to treatment of PCBs at any given job site. The site-specific notification shall include the following information:

- A. The client’s name, address, and phone number;
- B. The approximate quantity of PCBs to be processed by the

MTU;

C. The approximate PCB concentration of the PCB material prior to treatment; and

D. The location of the job site.

(8) Standards for Owners// and Operators of PCB Facilities. The owner// and operator of a permitted Missouri PCB facility shall comply with this section. This section sets forth standards for a Missouri PCB facility permit which modify and add to the requirements of 40 CFR [P]part 264 incorporated by reference in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2), which apply in this rule. For those subsections marked *Reserved* in which no modification or addition is indicated, the requirements of 10 CSR 25-7.264 and those 40 CFR parts incorporated by reference in 10 CSR 25-7.264(1) apply.

(A) Applicability. This subsection sets forth standards which modify or add to the requirements in 40 CFR [P]part 264 [S]subpart A, incorporated in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2)(A). This section does not apply to an owner// or operator of a provisionally regulated PCB facility or mobile treatment unit provided that the owner// or operator maintains compliance with section (6) or (7) of this rule, respectively.

(B) General Facility Standards. This subsection sets forth standards which modify or add to 40 CFR [P]part 264 [S]subpart B, incorporated in 10 CSR 25-7.264(1) [and modified in 10 CSR 25-7.264(2)(B)]. In addition to the requirements in 40 CFR 264.13(a)(1), as incorporated in 10 CSR 25-7.264(1), the waste analysis, at a minimum, shall contain all the information which must be known to treat, store, dispose of, or broker the waste in accordance with the requirements of this rule, the PCB facility permit conditions and 40 CFR [P]part 761.

(E) Manifest System, Record Keeping, and Reporting. The owner// or operator shall comply with the requirements in section (3/4) of this rule.

(G) Closure and Post-Closure. [This subsection sets forth standards which modify or add to those requirements in 40 CFR Part 264 Subpart G incorporated in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2)(G). The most recent closure and post-closure estimates prepared in accordance with this subsection shall be submitted annually to the department by March 1.] (Reserved)

(N) Landfills. [This subsection sets forth standards which modify or add to the requirements in 40 CFR Part 264 Subpart N incorporated by reference in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2)(N).] Landfilling of PCB material containing free liquids is prohibited.

(O) PCB Incinerators. This subsection sets forth standards applicable to PCB incinerators which modify or add to those requirements in 40 CFR [P]part 264 [S]subpart O, incorporated by reference in 10 CSR 25-7.264(1) [and modified in 10 CSR 25-7.264(2)(O)].

1. The provisions of 40 CFR 264.340(b), as incorporated in 10 CSR 25-7.264(1), shall not apply in this rule.

2. The requirements of 40 CFR 264.343(a)(1), as incorporated in 10 CSR 25-7.264(1), are modified to require an incinerator burning PCBs to achieve a destruction and removal efficiency (DRE) of ninety-nine and nine thousand nine hundred ninety-nine ten-thousandths percent (99.9999%).

3. The provisions of 40 CFR 264.343(a)(2) as incorporated in 10 CSR 25-7.264(1) shall not apply in this rule.

4. Combustion criteria for PCB liquids and combustion gases entering a secondary chamber shall be either of the following:

A. Maintenance of the introduced liquids for a two- (2-)/-second dwell time at twelve hundred degrees Celsius, plus or minus one hundred degrees Celsius (1,200°C ± 100°C) and three percent (3%) excess oxygen in the stack gas; or

B. Maintenance of the introduced liquids for a one and one-half (1 1/2) second dwell time at sixteen hundred degrees Celsius, plus or minus one hundred degrees Celsius, (1,600°C ± 100°C) and

two percent (2%) excess oxygen in the stack gas.

5. Combustion efficiency shall be at least ninety-nine and nine-tenths percent (99.9%), computed as follows: Combustion efficiency equals the concentration of carbon dioxide divided by the sum of the concentration of carbon dioxide and the concentration of carbon monoxide multiplied by one hundred

$$\left(\frac{C_{CO_2}}{C_{CO_2} + C_{CO}} \right) \times 100$$

where

C_{CO_2} = the concentration of carbon dioxide; and

where

C_{CO} = the concentration of carbon monoxide.

6. The provisions of 40 CFR 264.344(a)(2), as incorporated in 10 CSR 25-7.264(1) shall not apply in this rule.

(P) [Health Profiles.] (Reserved)

(X) Miscellaneous Units. This subsection sets forth requirements which modify or add to the requirements in **40 CFR 264 subpart X, incorporated by reference in 10 CSR 25-7.264(2)(X)(1)**.

1. Permit conditions will be based upon successful process demonstrations. The process demonstrations shall define the maximum PCB concentration and type of PCB material and PCB units that can be treated.

2. The final concentrations of treated PCB material must be less than two parts per million (2 ppm) PCB.

(9) Interim Status Standards for Owners// and Operators of PCB Facilities. The requirements set forth in 40 CFR [P]part 265, incorporated by reference in 10 CSR 25-7.265(1) and modified in 10 CSR 25-7.265(2) apply in this rule. This section sets forth standards for interim status PCB facilities which modify and add to the requirements of 40 CFR [P]part 265 incorporated by reference in 10 CSR 25-7.265(1) and modified in 10 CSR 25-7.265(2). This section does not apply to an owner// or operator of a provisionally regulated PCB facility or mobile treatment unit provided that the owner// or operator maintains compliance with section (6) or (7) of this rule, respectively. For those subsections marked *Reserved* in which no modification or addition is indicated, the requirements of 10 CSR 25-7.265 and those 40 CFR parts incorporated by reference in 10 CSR 25-7.265(1) apply in this rule.

(A) General. Within one hundred eighty (180) days after the effective date of this rule, the owner// or operator shall complete, sign, and submit a PCB facility permit application or a closure plan prepared in accordance with 10 CSR 25-13.010(9)(G) to the director.

(E) Manifest System, Record Keeping, and Reporting. The owner// or operator shall comply with the requirements in section (3) of this rule.

(10) PCB Facility Permitting. The requirements in 40 CFR [P]part 270, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2) apply in this rule. This section sets forth standards for a Missouri PCB facility permit which modify and add to the requirements of 40 CFR [P]part 270 incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2). This section does not apply to an owner// or operator of a provisionally regulated PCB facility or a mobile treatment unit provided that the owner// or operator maintains compliance with section (6) or (7) of this rule, respectively. For those subsections marked *Reserved* in which no modification or addition is indicated, the requirements of 10 CSR 25-7.270 and those 40 CFR parts incorporated by reference in 10 CSR 25-7.270(1) apply in this rule.

(A) General Information. This subsection sets forth standards which modify or add to the requirements in 40 CFR [P]part 270 [S]subpart A, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2)(A). The owner// or operator shall submit a Missouri PCB facility application on a form provided by the department.

(B) Permit Application. This subsection sets forth standards which modify or add to the requirements in 40 CFR [P]part 270 [S]subpart B, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2)(B).

1. The requirements for qualifying for interim status are set forth in paragraph (10)(G)2. of this rule.

2. The waste analysis plan required by 40 CFR 270.14(b)(3), as incorporated in 10 CSR 25-7.270(1), shall be prepared in accordance with subsection (8)(B).

3. These requirements are in addition to the specific information requirements for incinerators in 40 CFR 270.19 as incorporated in 10 CSR 25-7.270(1).

A. 40 CFR 270.19(a), as incorporated in 10 CSR 25-7.270(1), shall not apply in this rule.

B. In addition to the requirements of 40 CFR 270.19(c)(5) as incorporated in 10 CSR 25-7.270(1), methods and results of monitoring for the following parameters shall be submitted from any previously-conducted trial burns: oxygen (O₂); carbon dioxide (CO₂); oxides of nitrogen (NO_x); hydrochloric acid (HCl); total chlorinated organic content (RCI); PCBs; and total particulate matter.

(F) Special Forms of Permits. This subsection sets forth standards which modify or add to the requirements in 40 CFR [P]part 270 [S]subpart F incorporated by reference in 10 CSR 25-7.270(1) [and modified in 10 CSR 25-7.270(2)(F)].

1. In addition to the requirements of 40 CFR 270.62(b)(2), as incorporated in 10 CSR 25-7.270(1), the applicant shall conduct monitoring for the following parameters: a) oxygen (O₂); b) carbon monoxide (CO); c) carbon dioxide (CO₂); d) oxides of nitrogen (NO_x); e) hydrochloric acid (HCl); f) total chlorinated organic content (RCI); g) PCBs; and h) total particulate matter.

AUTHORITY: sections 260.370 and 260.395, RSMo Supp. [2010] 2013, and section[s] 260.396, RSMo 2000. Original rule filed Aug. 14, 1986, effective Jan. 1, 1987. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on June 18, 2015 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.*

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. s must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 16—Universal Waste**

PROPOSED AMENDMENT

10 CSR 25-16.273 Standards for Universal Waste Management.
The commission is amending section (1) of the rule.

PURPOSE: The reason for this amendment is to update the incorporation by reference of 40 CFR part 273 from the July 1, 2010 edition to the July 1, 2013 edition. In doing so, all changes to part 273 during this time period will be incorporated into the state rules.

(1) The regulations set forth in 40 CFR part 273, July 1, [2010, and the changes made at 72 FR 35666, June 29, 2007,] 2013 as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

AUTHORITY: section 260.370, RSMo Supp. [2010] 2013. Original rule filed June 1, 1998, effective Jan. 30, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed April 15, 2015.

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

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

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Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on June 25, 2015. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on June 25, 2015. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Missouri Hazardous Waste Management Commission

Public Hearing on Proposed
Hazardous Waste Rule Amendments

June 18, 2015

Presentation Overview

- Background - Why the change?
- Proposed Amendments - What are the changes?

Background - Why the change?

- In response to Missouri business's requests, the Missouri legislature passed Section 260.373 of the RSMo in 2012
 - This required the Department to identify rules that are stricter than or inconsistent to corresponding regulations in certain subject areas, and to file amendments to eliminate those state rules (with some exceptions)
 - These rules needed to be eliminated by December 31, 2015, or they will become null and void, unless already incorporated into a facility permit

Background - Why the change?

- Implement “No Stricter Than” statute by eliminating requirements that are stricter than federal
- Amend other rules with references to rules that are changing because of “No Stricter Than”
- Amend other rules to make changes that are consistent with the requirements of the “No Stricter Than” Statute

Background cont.

- Update incorporation by reference of Code of Federal Regulations to July 1, 2013; plus solvent wipes and electronic manifest rules
 - Current rules incorporate by reference July 1, 2010, edition
 - Amendments of twelve rules will update to the July 1, 2013, edition

Implementation of “No Stricter Than” Statute

- Rules directly affected include:
 - Definitions (10 CSR 25-3.260)
 - Identification of Hazardous Waste (10 CSR 25-4.261)
 - Hazardous waste generators (10 CSR 25-5.262)
 - Hazardous Waste TSDs (10 CSR 25 -7.264, 7.265, 7.266, 7.268 and 7.270)

Implementation of “No Stricter Than” cont.

- Rules indirectly affected include:
 - Hazardous waste transporters
(10 CSR 25-6.263)
 - Resource recovery (10 CSR 25-9.010)
 - Used oil (10 CSR 25-11.279)
 - Universal waste (10 CSR 25-16.273)

Rules Affected – Incorporation by Reference of 2010 CFR

10 CSR 25

- Chapters 3,4,5,7
- 6.263 - Transporters
- 11.279 - Used Oil
- 13.010 - PCBs
- 16.273 - Universal Waste Rule

Rules Affected – Reference to 2010 CFR

10 CSR 25-8.124 – Public Participation

Proposed Amendments - What Are The Changes?

- A total of 14 state rules will be amended in Title 10, Division 25 of the Code of State Regulations
- A total of six federal rules will be adopted

Federal Rules adopted include:

- Removal of Saccharin and its Salts from the Lists of Hazardous Wastes, December 7, 2010
- Corrections to the Academic Laboratories Generator Standards, December 20, 2010
- Revisions of the treatment standards for carbamate wastes, June 13, 2011
- Hazardous Waste Technical Corrections and Clarifications, April 13, 2012
- Conditional Exclusion for Solvent Contaminated Wipes, July 31, 2013
- Hazardous Waste Electronic Manifest Rule, February 7, 2014

Proposed Amendments

- Published in May 15, 2015 Missouri Register (40 MoReg pp. 626-670)
- Comment period ends on June 25, 2015

Exclusions to “No Stricter Than” statute

- Bill gives Commission authority to retain or modify rules for:
 - Generator thresholds for CESQG, SQG, and LQG (5.262)
 - Descriptions of applicable registration requirements (5.262)
 - Reporting of hazardous waste activities to department, provided that department adopts rules effective for reporting period of July 1, 2015, to June 30, 2016, that allow for electronic reporting on an annual basis by LQGs and TSDs (5.262)
 - Display of hazard labels on containers and tanks during storage (5.262)
 - Zinc fertilizer rule and hazardous secondary materials burned for fuel or recycled (4.261)

10 CSR 25-3.260 – Definitions p.626

- Elimination of definitions inconsistent with “No Stricter Than” statute or are no longer being used
- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Makes owner/operator definition consistent with federal regulations
 - Clarification of definition of Used Oil
 - Elimination of duplicative/unnecessary acronyms and definitions

10 CSR 25-4.261 – Identification of Hazardous Waste p. 629

- Elimination of definitions inconsistent with “No Stricter Than” statute
- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Elimination of Missouri waste codes for dioxin and used oil
 - Changes to Missouri’s definition of used oil and when used oil becomes a hazardous waste
 - Removal of state specific household hazardous waste requirements for TSD’s
 - Elimination of exclusion for hazardous secondary materials processed into zinc fertilizers
 - Removal of clarifications and interpretations of federal regulations

Waste codes for dioxin and used oil

- Dioxin - Restores federal hazardous waste definitions, exclusions and management standards for 245T & 2378TCDD
- Used Oil – Removes the Missouri specific waste code for used oil that is disposed rather than recycled

Definition of used oil

- Modified to allow used oil that is released into the environment to still be managed as used oil
- Removed Missouri specific language regarding petroleum-derived or synthetic oils used as solvents

Zinc fertilizer exclusion

- Originally adopted in 2006
- Affected only one facility which is no longer operating under the exclusion
- Standards are not protective

10 CSR 25-5.262 – Generators of Hazardous Waste p. 631

- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Container and tank labeling
 - Satellite accumulation
 - Elimination of Missouri-specific requirements for secondary containment upon accumulation of 1000kg of liquid hazardous waste and associated inspections
 - No longer requires a contingency plan or personnel training plan for generators that **accumulate** 1000kg or less in a calendar month

10 CSR 25-5.262 – Generators of Hazardous Waste p. 631 cont.

- Areas of emphasis (cont):
 - Removes requirement for daily inspections of areas subject to spills, and removes requirement for taking immediate remedial action if hazard is imminent or has occurred
 - Removal of Missouri specific inspection criteria (malfunction, operator error, potential release)
 - Removes Missouri specific design standards for storage area base (slope, elevation of container, contact with precipitation, etc.)
 - Removes Missouri specific prohibition for storage of volatiles in an open tank
 - Removes prohibition on storage of less than 6000kg of ignitable or reactive waste less than 50 feet from the property line

10 CSR 25-5.262 – Generators of Hazardous Waste p. 631 cont.

- Areas of emphasis (cont):
 - Removes Missouri’s additional requirements for management of ignitable, reactive, incompatible and volatile waste, in addition to signage
 - Removes Missouri specific requirements for closure of a storage area after one year of inactivity or expected inactivity
 - Removes Missouri specific exception reporting requirements
 - Removes duplicative Missouri requirements for manifest records retention
 - Removes Missouri’s duplicative reference to other applicable emergency response procedures

Container Labeling

- Relates to information on hazardous waste containers in storage
- Missouri has required containers to be packaged, marked, and labeled in compliance with DOT since rules originally adopted
- Prior to “No Stricter Than,” changes to MO requirements were being considered at stakeholder request

Container Labeling cont.

- “No stricter than” statute allowed the retention of requirements related to the display of hazard labels on containers
- Amendment would allow generators to follow current rule or federal rule plus additional information about contents of container

Container Labeling cont.

10 CSR 25-5.262(2)(C)1.

Option 1 - Current Missouri rule:

- Containers labeled per DOT during the entire time the waste is accumulated on-site.
- If less than one (1) gallon, the generator may label the locker, rack or other device used to hold or accumulate any such container

Option 2 - Federal rule plus additional words to identify container contents:

- Clearly label container with words that correctly identify the hazards of the contents of the container during the entire on-site storage period. (Ignitable, Toxic, Corrosive, or Reactive)
- If less than one (1) gallon, the generator may label the locker, rack or other device used to hold or accumulate any such container

Tank Labeling

- As with containers, statute provides exclusion for display of hazard labels
- Stakeholders agreed to requirements for display of hazard labels
- Generators with tanks must comply with NFPA Standard 704

Satellite Accumulation

- Relates to storage of hazardous waste at or near point of generation
- Missouri allows a greater volume of waste to be stored with a one year time limit
- With loss of one year time limit as a mandatory requirement, amendment would require generators to follow federal rule and guidance

Satellite Accumulation cont.

Option One: Follow the Federal interpretation

- Limited to 55 gal total of hazardous waste accumulation – from all waste streams
- Allows for multiple containers

Option Two: Follow Missouri's Interpretation (Facility Wide)

- Missouri allows a greater volume, with a 1 year time limit, or until container is full
- 55 gal per waste stream
- One container per waste stream
- Date of accumulation on each satellite container
- If chosen, submit updated Notification of Regulated Waste Activity form

10 CSR 25-6.263 – Transporters of Hazardous Waste p.639

- Updated incorporation by reference of Code of Federal Regulations

10 CSR 25-7.264 – Hazardous Waste Treatment, Storage, and Disposal Facilities p. 639

- Elimination of definitions inconsistent with “No Stricter Than” statute
- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Makes owner/operator responsibilities consistent with federal regulations

10 CSR 25-7.264 – Hazardous Waste Treatment, Storage, and Disposal Facilities p.639

- Areas of emphasis include (cont.):
 - Eliminates Missouri’s “24 hour rule” interpreting EPA’s policy on permitted and interim status storage
 - Eliminates the Missouri specific requirements for import of hazardous waste
 - Eliminates surface water monitoring requirements for regulated units
 - Eliminates state specific closure requirements (deed notices, etc.)
 - Eliminates state specific financial assurance requirements

10 CSR 25-7.264 – Hazardous Waste Treatment, Storage, and Disposal Facilities p. 639-650

- Areas of emphasis include (cont.):
 - Retains option on storage of hazardous waste within 50 feet of property line
 - Eliminates Missouri specific design and operating standards for hazardous waste management units
 - Eliminates the Missouri specific requirements for health profiles
 - Railcar management plans - optional

10 CSR 25-7.265 – Interim Status Hazardous Waste Treatment, Storage, and Disposal Facilities p. 650

- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Makes owner/operator responsibilities consistent with federal regulations
 - Eliminates Missouri’s “24 hour rule” interpreting EPA’s policy on permitted and interim status storage
 - Eliminates the Missouri specific requirements for import of hazardous waste

10 CSR 25-7.265 – Interim Status Hazardous Waste Treatment, Storage, and Disposal Facilities p. 650

- Areas of emphasis include (cont.):
 - Eliminates state specific financial assurance requirements
 - Eliminates state specific closure requirements (deed notices, etc.)
 - Eliminates Missouri specific design and operating standards for hazardous waste management units
 - Railcar management plans – optional

10 CSR 25-7.266 – Boilers and Industrial Furnaces p. 655

- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Makes owner/operator responsibilities consistent with federal regulations
 - Removes references/requirements for design and operating standards contained in 25-7.264 and .265

10 CSR 25-7.268 – Land Disposal Restrictions

p. 656

- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Makes owner/operator responsibilities consistent with federal regulations
 - Removes treatment standards and prohibition on disposal for hazardous waste with Missouri specific Dioxin related waste codes

10 CSR 25-7.270 – Hazardous Waste Permit Process p. 657

- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Makes owner/operator responsibilities consistent with federal regulation
 - Eliminates Missouri specific requirements for elementary neutralization and waste water treatment units
 - Removes certain administrative notifications and reporting requirements

10 CSR 25-7.270 – Hazardous Waste Permit Process p. 657

- Areas of emphasis include (cont)
 - Removes Missouri seismic evaluation requirements for hazardous waste management facility permit applicants

10 CSR 25-8.124 – Public Participation

p. 662

- Unlike other rules, MO does not incorporate 40 CFR part 124 by reference
- MO rule restates requirements of federal rule with state-specific language

10 CSR 25-9.020 – Hazardous Waste Resource Recovery Facilities p. 663

- Makes owner/operator definition consistent with federal regulations
- Updated regulatory citations

10 CSR 25-11.279 – Used Oil p. 665

- Elimination of definitions inconsistent with “No Stricter Than” statute
- Updated incorporation by reference of Code of Federal Regulations
- Areas of emphasis include:
 - Definition of used oil
 - Used oil-contaminated materials
 - Management of spilled oil

10 CSR 25-13.010 – Polychlorinated Biphenyls p. 666

- Updated incorporation by reference of Code of Federal Regulations

10 CSR 25-16.273 – Universal Waste

p. 670

- Updated incorporation by reference of Code of Federal Regulations

Solvent Wipes Rule

- Modifies RCRA hazardous waste regulations for solvent-contaminated wipes
- 40 CFR 261.4(a)(26) reusable wipes- conditional exclusion from the definition of solid waste
- 40 CFR 261.4(b)(18) disposable wipes – conditional exclusion from the definition of hazardous waste

Solvent Wipes rule - cont.

- Provide consistent regulatory framework
- Appropriate to risk level posed by solvent contaminated wipes
- Maintain protection of human health and the environment and reduce overall compliance costs for industry

Solvent Wipes rule - cont.

- Solvent contaminated wipes may be accumulated by the generator for up to 180 days prior to being sent for cleaning or disposal.
- Non-leaking closed container, that can contain free liquids, should they occur
- Marked “Excluded Solvent-Contaminated Wipes”
- No free liquids in container prior to being sent for cleaning or disposal
- Closed containers and maintain records

Electronic Manifest rule

- Hazardous Waste Electronic Manifest Establishment Act’ ’ enacted October 2012.
- 2 different rules planned by EPA to implement the statute
- This is the first of the two rules – authorizes electronic manifests

Rulemaking Schedule

- May 15, 2015 - Proposed amendments published in *Missouri Register*
- June 18, 2015 - Public Hearing with HWMC
- June 25, 2015- End of Public Comment period
- August 20, 2015- Final adoption of rules by HWMC
- September 21, 2015 - Orders of Rulemaking filed with Sec. Of State
- November 1, 2015 - Orders of Rulemaking published in *Missouri Register*
- December 30, 2015 - Rulemaking effective



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

QUESTIONS ?

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 4**

Rulemaking Update

Information:

The Hazardous Waste Management Commission to be provided an update on recent rulemaking activities.

Recommended Action:

Information Only

Presented by:

Mr. Tim Eiken – Rule Coordinator, HWP

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 5**

Underground Storage Tanks Operational Rules Update

Issue:

The Department will soon be taking steps to begin a group of proposed amendments and additions to Division 26, the regulations for Underground Storage Tanks (USTs).

Information:

The purpose of most of these changes and additions to Missouri's regulations is to include the newly promulgated Environmental Protection Agency's (EPA's) changes to the federal UST regulations. The Missouri UST program has "State Program Approval" from EPA, but this approval requires that state regulations be kept up to date with federal regulations. The Department's UST federal grant funding would likely be affected if we do not promulgate and implement EPA's new regulatory requirements.

EPA's new UST regulations include significant new requirements for new UST systems. These include requiring double-walled UST systems, regulating previously deferred tanks, and adding many new equipment testing requirements.

In addition, the Department has proposed state-specific modifications. The most recent rulemaking (2011) added new requirements for the installation of new UST systems. As with any new regulations, suggestions for changes and improvements have been provided and added. While the 2011 rulemaking updated some of the requirements for the continued use of older tanks, the interior lining option was not included then as a significant new technology in development and not yet fully evaluated. This new technology needs to be addressed within our regulations. Additional clarification and detail is included in the release detection regulations as well. Finally, additional clarification and updates to industry standards are included as needed.

Recommended Action:

Information Only.

Presented by:

Heather Peters, Environmental Scientist, Hazardous Waste Program

Underground Storage Tank Rule Changes 10 CSR 26- 2

June 18, 2015

Heather Peters

The Webpage

<http://dnr.mo.gov/env/hwp/ustchanges.htm>

- Updates on Proposed Changes
- Details on the Changes
- Federal or State Changes
- Implementation Dates

Why are these changes necessary?

- **EPA Promulgating New Regulations**
- **State Program Approval**
- **EPA Federal Grant Funding**
- **Include State Specific Changes**

What are the federal changes?

- Regulates new UST systems
 - Field constructed (concrete) tanks
 - Airport hydrant (fueling) systems
 - Wastewater treatment tanks
- New “secondary containment” requirements

What are the federal changes?

- New testing requirements
 - Spill and overflow prevention equipment
 - Release detection equipment (tanks and piping)
 - Containment sumps
- Release detection method changes
 - Significantly changes outdated methods
 - Adds new methods for “newly regulated” tanks
- Walk-through inspections

Secondary Containment (SC)

- Double-walled tanks
- Double-walled piping
- Containment sumps
- Monitoring between the walls of the tanks
- Monitoring containment sumps
- Testing containment sumps

State Implementation of SC

- For new tanks or piping installed after
July 1, 2017
- Old tanks 'grandfathered' in
- Old sumps 'grandfathered in

What are the state changes?

- **New installation requirements**
- **Continued use of old tanks**
- **Repairing UST systems**
- **Include new technology**

Questions?

MWCC- Missouri Waste Control Coalition
Tuesday, July 14th at 1:30
\$50 for Lunch and UST Rules Session Only

<http://events.constantcontact.com/register/event?llr=hpyyyvbab&oeidk=a07eb2pujcg0c1efb92>

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 6**

E-Reporting Update

Issue:

The Hazardous Waste Management Commission will be provided an update on the development of the Department's E-Reporting system. Information will be provided on the current timeline and progress of the testing.

Recommended Action:

Information Only

Presented by:

Mr. David Green – Fees & Taxes Unit, Budget & Planning Section, HWP

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 7**

Legal Update

Issue:

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

Information:

Information Only

Presented by:

Ms. Kara Valentine, Office of the Attorney General

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 8**

Public Inquiries or Issues

Issue:

Opportunity for participants to speak to the Commission on relevant issues or matters before them.

Information:

Information Only

Presented by:

Mr. David J. Lamb – Director, HWP

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 9**

Other Business

Issue:

Update to the Commission on Program matters and other relevant issues.

Information:

Information Only

Presented by:

Mr. David J. Lamb – Director, HWP

Missouri Hazardous Waste Management Commission Meeting

**June 18, 2015
Agenda Item # 10**

Future Meetings

Information:

Meeting Dates:

Date	Time	Location
Thursday, August 20, 2015	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, October 15, 2015	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, December 17, 2015	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, February 18, 2016	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, April 21, 2016	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101
Thursday, June 16, 2016	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101

Recommended Action:

Information Only