



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**

August 20, 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, June 11, 2015 – Commissioners
Approval of Minutes – General (Open) Session, June 18, 2015 – Commissioners

Action Items

3. Public Hearing – Proposed Amendment to 10 CSR 25-12.010 Hazardous Waste Fees and Taxes – Tim Eiken, Director’s Office, HWP
4. Adoption of Orders of Rulemaking – “No Stricter Than” – Tim Eiken, Director’s Office, HWP

Information Only:

5. Rulemaking Update – Tim Eiken, Director’s Office, HWP
6. Missouri Risk Based Corrective Action Update – Tim Chibnall, Director’s Office, HWP
7. Financial Responsibility Update – Mike Martin, Compliance and Enforcement, HWP
8. E-Reporting Update – David Green, Fees and Taxes, HWP
9. Quarterly Report – Larry Archer, Public Information Office
10. Legal Update – Kara Valentine, Office of the Attorney General
11. Public Inquiries or Issues – David J. Lamb, Director, HWP
12. Other Business – David J. Lamb, Director, HWP
13. Future Meetings
Thursday, October 15, 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: August 20, 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

August 20, 2015

Agenda Item # 1

Pledge of Allegiance

Missouri Hazardous Waste Management Commission Meeting

**August 20, 2015
Agenda Item # 2**

Approval of Minutes

Issue:

Commission to review the General Session minutes from the June 11, 2015, Hazardous Waste Management Commission meeting.

Commission to review the General Session minutes from the June 18, 2015, Hazardous Waste Management Commission meeting.

Recommended Action:

Commission to approve the General Session minutes from the June 11, 2015, Hazardous Waste Management Commission meeting.

Commission to approve the General Session minutes from the June 18, 2015, Hazardous Waste Management Commission meeting.

GENERAL

SESSION

MEETING

MINUTES

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
June 11, 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 Commissioners participated by teleconference and the meeting was open to the public at the 1730 E. Elm Street Conference Center. The meeting was videoed and will be available on the Commission's web page.

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

COMMISSIONERS PRESENT BY PHONE

Commissioner Michael Foresman
Commissioner Mark Jordan
Chairman Charles Adams
Vice Chairman Elizabeth Aull
Commissioner Andrew Bracker

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

1. PLEDGE OF ALLEGIANCE

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

2. FINDING OF NECESSITY

Mr. Tim Eiken, Rule Coordinator, HWP, addressed the Commission and provided a PowerPoint presentation on the Department's request to move forward with a proposed rulemaking on changes to the generator fee structure. Mr. Eiken began with the statutory background for the proposed changes, noting that Sections 260.380.1(10)(d) and 260.475.8 provide authority to the Department to propose changes to the fee structure. He also noted that the statutes require stakeholder input, and that the Commission approve the Department to move forward with the proposed rule by a 2/3 majority vote or 5 of 7 commissioners. He went on to advise that the Finding of Necessity was required by section 536.016 RSMo for all rules, that the rule must be necessary to carry out purposes of statute, and that the rulemaking must be based upon reasonably available empirical data and assessment of the effectiveness and cost of the rules.

He advised that 536.016.1 stated that “Any state agency shall propose rules based upon substantial evidence on the record and a finding by the agency that the rule is necessary to carry out the purposes of the statute that granted such rulemaking authority.” He also noted that the Department’s rulemaking procedures are documented in the Administrative Rulemakings Policy and Guidance Manual, and that the procedures include documentation of all aspects of need for new, amended or rescinded rules, as well as public participation and other aspects.

Mr. Eiken then advised the Commission of why the amendment was necessary, noting it was necessary to implement changes to the hazardous waste fee structure recommended by the hazardous waste fee stakeholder workgroup. He noted that this included changes to the generator registration and renewal fee, in-state waste fee, and the land disposal fee. He stated that the portion of 10 CSR 25-12.010 relating to each fee must be amended to reflect changes to the rates, in addition to other changes proposed to the fee structure; including the charge of the per ton rate for any partial ton of waste for all fees and the new tiered generator registration and renewal fee to be collected for calendar year 2017.

Mr. Eiken went on to state that this proposal was developed through the stakeholder process and that five stakeholder meetings were held – beginning in November 2014. He noted that the Department provided information about budget, revenues, and expenditures; about how the fee structure compared to other states; and that the stakeholders provided input about impact of fees. He also noted that a fee calculator was developed and presented to show impact of various proposals; and that a live calculator was used for fee stakeholder meetings along with a spreadsheet that showed a detailed breakdown of the impact to individual generators. Mr. Eiken also advised the Commission that prior to meetings and between meetings, information was posted to the Department’s webpage. He noted that the stakeholder meetings were conducted using Adobe Connect for presentations and that a conference line was available for audio. Notices were sent out to various email groups prior to each meeting and that an initial notice of this process was included in the generator fee mailing in November 2014.

Mr. Eiken stated that the basis for this Finding of Necessity was as follows: the hazardous waste fees have not been adjusted since 2005; Sections 260.380.1(10)(d) and 260.475.8 provided authority to do a comprehensive review; the Department’s fee workgroup efforts focused on trying to obtain agreement on a reasonable fee increase; the Department projects a funding shortfall and proposed changes would address a portion of the shortfall; and that subsequent to the stakeholder process, the EPA was projecting significant cuts in grant funding which would impact the Department’s funding for Resource Conservation and Recovery Act activities.

Mr. Eiken then explained the fee proposal, noting that hazardous waste generator registration and renewal fee would increase from \$100 for all generators to \$150 for conditionally-exempt and small quantity generators and \$500 for large quantity generators. He noted that this would also include an exclusion that would allow multiple sites in close proximity operated by a single entity to pay a single large quantity generator registration and renewal fee. He explained that the in-state fee for hazardous waste generated in Missouri would

change from \$5 per ton to \$6.10 per ton, and that the minimum amount for in-state fee would increase from \$150 to \$200 and the minimum was to be applied to the first ton of waste. He noted that the maximum amount for in-state fee would increase from \$52,000 to \$57,000, and that the land disposal fee for hazardous waste land disposed in Missouri would increase from \$25 per ton to \$29.50 per ton or partial ton. He stated that the proposal projected to generate approximately \$500K in additional revenue to Hazardous Waste Fund.

Mr. Eiken ended his formal presentation by providing the Commission with an outline of the evidence that supported the Department's request, noting that this included meeting summaries, presentations, and other information for the fee stakeholder workgroup; in addition to financial information documenting revenues, expenditures, and the projected shortfall, along with stakeholder comments and input.

An opportunity was provided for the Commission to pose any questions. None were asked.

Chairman Adams advised that he would entertain a motion on the request before them.

Commissioner Foresman made the following motion: *"I move that the Commission approve the Department's request to file a proposed amendment to 10 CSR 25-12.010, to change the hazardous waste fee structure, and further find that this rule is necessary to carry out the purposes of the Revised Statutes of Missouri."* Commissioner Aull seconded the motion.

A vote was taken with Commissioners Adams, Foresman, Aull and Bracker voting "yes." Commissioner Jordan voted "no." Chairman Adams noted that a majority vote had been affirmative and that the motion had passed.

3. PUBLIC INQUIRIES

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission and noted that there were no public attendees at today's meeting.

4. OTHER BUSINESS

Mr. David J. Lamb, Director, Hazardous Waste Program, addressed the Commission and advised the Commissioners that the public hearing on the "No Stricter Than" rule package was scheduled for the regularly scheduled Commission meeting on June 18, 2015, and that the Department's testimony covered a large amount of material and would take close to an hour to get through.

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. FUTURE MEETINGS

The next 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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Commissioner Foresman made the motion to adjourn the meeting at 12:37 p.m. The motion was seconded by Commissioner Aull.

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

Respectfully Submitted,

Debra D. Dobson, Commission Assistant

APPROVED

Charles Adams, Chairman

Date

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
June 18, 2015; 10:00 A.M.
1730 E. Elm Street
Roaring River Conference Room
Jefferson City, MO 65102

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The meeting was videoed and will be available on the Commission's web page.

COMMISSIONERS PRESENT IN PERSON

Commissioner Charles (Eddie) Adams
Commissioner Mark Jordan

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

COMMISSIONERS PRESENT BY PHONE

Commissioner Elizabeth Aull
Commissioner Michael Foresman
Commissioner Andrew Bracker

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

1. PLEDGE OF ALLEGIANCE

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

2. APPROVAL OF MINUTES

Vice-Chairman Aull suggested a change to page 4, paragraph 5, line 4, to change the word "Medicaid" to "Medicare." The change was made to the official copy of the minutes.

Commissioner Bracker made a motion to accept the Minutes 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. PUBLIC HEARING – “NO STRICTER THAN” RULEMAKING

Chairman Adams began the Public Hearing by reading an opening statement:

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.

Mr. Tim Eiken, Director’s Office, was sworn in and gave a PowerPoint presentation providing the Department’s testimony on the proposed rule changes. Following Mr. Eikens’ testimony, Mr. David Shanks, of Boeing, and Mr. Kevin Perry of REGFORM, were each sworn in and provided testimony/comments on the proposed rule. After determining that there was no one else wishing to provide comments/testimony, Chairman Adams called the Public Hearing closed at 11:43 a.m. A copy of the transcript of the Public Hearing may be found at: <http://dnr.mo.gov/env/hwp/commission/docs/2015/20150618-transcript.pdf>. A hard copy of the hearing transcript is attached to these minutes.

11:43 a.m. Chairman Adams called for a short recess.

11:51 a.m. Chairman Adams called the meeting back to order.

4. RULEMAKING UPDATE

Mr. Tim Eiken, Directors Office, addressed the Commission and began with noting that most of the rulemaking activity had already been covered. He advised the Commission that the Generator Fee Amendment rule had been filed with the Secretary of State’s Office on Monday, meeting the June 15th deadline and remaining on schedule. He stated that the public hearing on that rule would occur at the August 20th meeting and that there would also be a

decision item on the “No Stricter Than” rulemaking at the August meeting as well. He noted that there would be a decision item on the Generator Fee Amendment” at the October meeting.

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. UNDERGROUND STORAGE TANKS OPERATIONAL RULES UPDATE

Ms. Heather Peters, Compliance and Enforcement Section, addressed the Commission and provided a PowerPoint presentation on the Underground Storage Tanks Operational Rules Update. Ms. Peters first noted that all the information presented was available on the webpage located at: <http://dnr.mo.gov/env/hwp/ustchanges.htm>. Ms. Peters went on to describe the necessity for the changes, which included EPA promulgating new regulations, the need for State Program approval, the impacts to our EPA federal grant funding, and the state specific requirements. She noted that the federal changes would regulate new UST systems, including field constructed (concrete) tanks, airport hydrant (fueling) systems, and potentially, wastewater treatment tanks. She advised that it also included the new “secondary containment” requirements. Ms. Peters went on to note that these changes included new testing requirements for spill and overflow prevention equipment, release detection equipment (tanks and piping) and containment sumps; release detection method changes; and walk-through inspections.

Ms. Peters went on to explain that secondary containment covered double-walled tanks, double-walled piping, containment sumps, monitoring between the walls of the tanks, monitoring containment sumps and testing containment sumps. She advised that the state implementation of secondary containment was for new tanks or piping installed after July 1, 2017, and that old tanks were ‘grandfathered’ in and old sumps were ‘grandfathered’ in.

She noted that the new state changes being considered would cover the areas of UST installation, the continued use of old tanks, the repairing of UST systems, and new technology.

Ms. Peters advised the Commission that she would be giving a presentation at the Missouri Waste Control Coalition Conference scheduled for July 14, 2015, and would be providing this information to stakeholders and the regulated community during the conference.

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

6. 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 noted that information had been provided at the previous meeting and that the system had been

undergoing testing in the interim. He noted that testing had only found a couple of minor issues that had been resolved quickly and that the system was scheduled to go live on July 1, 2015. He advised that a large mailing was scheduled to go out that week to the registered generators, outlining the new system and how to use it.

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. LEGAL UPDATE

Ms. Kara Valentine, Commission Counsel, addressed the Commission and noted that she had nothing new to report at this time.

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

8. 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.

9. OTHER BUSINESS

Mr. David J. Lamb, Director, HWP, addressed the Commission, and advised the Commission he had a couple of updates to the legislative and budget presentation he had provided to them at the previous meeting. He noted that with regards to the budget, the Department had received the appropriation authority it needed for its operating budget for the next year. He advised that two items that had gone to conference were resolved by going with the Governors recommendation. These items included a new decision item for the state's Superfund cost share and an attempt to move the appropriation for all state agency's out of state travel, to the Office of Administration. He noted that legislature had decided to concur with the \$939,176 general revenue appropriation recommended by the Governor for the Superfund costs share and to allow state agencies to retain the appropriations for their out of state travel. He advised that this was good news for our agency and that the Department appeared to be in good shape with the appropriations granted.

Mr. Lamb went on to advise that on the legislative side, there was one bill passed that related to hazardous waste. HB92, which turned in to a DNR omnibus bill. He noted that it started out as a "waters of the state" bill, but additional amendments were added addressing oil and gas development, solid waste management districts, sulfur dioxide monitoring, clean water policy, and affordability provisions as related to water and permit appeals procedures.

Mr. Lamb advised that the permit appeals process was the one that related to hazardous waste law. He noted that the bill clarified the process on appeals; explaining that under the

provisions of the bill, an appeal would first be heard by the Administrative Hearing Commission. If their decision was appealed, it would be sent to the Commission affected and they would make a final decision. He advised that if that decision was appealed it would be sent to the Appellate Court instead of the Circuit Court. He noted that the clarifications made changes to the hazardous waste, air and water laws to make the language consistent.

Mr. Lamb then went on to discuss issues regarding program funding, noting concerns about anticipated reductions to several of the program's grants. He advised that the EPA had changed the allocation formula on the RCRA grant. He stated that EPA Region VII had informed the Department that the reallocation would result in a reduction of approximately \$850,000 a year. He noted that this was a significant amount, equating to a 30 percent grant reduction that would be phased in over five years. He noted the program would have to be looking at streamlining, possibly holding positions, and other ways to address the shortfall. He noted that the Department would be initiating discussions with EPA to see what we can do to reverse some of the reductions.

Mr. Lamb advised that the reductions were a common theme across the grants, that the two UST grants had taken reductions; the Corrective Action grant had taken a 5 percent reduction, equaling approximately \$46,000; and the Preventative grant had taken an 8 percent reduction, equaling approximately \$41,000. He noted that last year's reduction to the Preventative grant had required the program to transfer a staff member to a different position and to leave the position vacant. He advised that with cuts again this year that the program would have to further streamline the activities of that unit and look at some other short term funding shifts to cover the unit's activities. He noted that the cuts were affecting the group's ability to do the work needed. He did note that there were only minor cuts to the Brownfields grants.

Mr. Lamb then advised the Commissioners that he had better news regarding the pesticide collection efforts, noting that the first event this year had been held on May 30th, in Portageville, Mo. He stated that this event had been the most successful to date, and that there had been 37 participants who had brought in over 29,000 pounds of pesticides for disposal. He noted that the next highest collection had been 25,000 pounds last year. He stated that this was a good start and that there were four other events scheduled this year; an event in Mount Vernon was scheduled for June 20th, an event in Higginsville was scheduled for July 18th, an event in Owensville was scheduled for August 15th, and one was scheduled in Kirksville for September 19th.

Mr. Lamb ended his presentation by advising the Commission that staff would be attending the Missouri Waste Control Coalition conference, which was scheduled to be held on July 12-14, at TanTarA Resort at the Lake of the Ozarks. He noted that the Brownfields Conference was being held in conjunction with the conference which would allow for more participation. He advised that Brownfield's staff conference would provide three sessions the first day, and noted that details on available resources and a presentation on Long Term Stewardship were on the agenda. He also advised that Tanks staff would be holding a number of sessions the second day and there would be information on free product recovery and the new tanks rules, included in the presentations.

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, August 20, 2015, at the 1730 E. Elm Street Conference Center.

Chairman Adams adjourned the meeting at 12:15 p.m.

Respectfully Submitted,

Debra D. Dobson, Commission Assistant

APPROVED

Charles Adams, Chairman

Date

PUBLIC HEARING 6/18/2015

Page 1	Page 3
<p>1 BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES 2 HAZARDOUS WASTE MANAGEMENT COMMISSION 3 STAFF, COMMISSIONERS & ACRONYMS 4 5 PUBLIC HEARING 6 7 June 18, 2015 8 1730 E Elm Street 9 Jefferson City, MO 65101 10 11 Before: 12 David Lamb - Director 13 Tim Eiken - Rule Coordinator 14 Kara Valentine - Commission Counsel 15 Charles Adams - Chair 16 Elizabeth Aull - Vice Chair (via phone) 17 Michael Foresman - Commissioner (via phone) 18 Mark Jordan - Commissioner 19 Andrew Bracker - Commissioner 20 21 THE COURT REPORTER: 22 Jenna Petree 23 MIDWEST LITIGATION SERVICES 24 401 Locust Street 25 Columbia, MO 65201 26 573-449-0561</p>	<p>1 Hazardous Waste Program Director, David Lamb. 2 Following the conclusion of the hearing, 3 comments may be submitted by mail to the director of the 4 Hazardous Waste Program, P.O. Box 176, Jefferson City, 5 Missouri 65102. Comments submitted by mail must be 6 postmarked on or before the end of the public comment 7 period on June 25, 2015. At this point we will begin the 8 hearing with Mr. Tim Eiken. 9 TIM EIKEN, having been first duly sworn, testifies as 10 follows: 11 MR. EIKEN: Good morning, Commissioner. My 12 name is Tim Eiken. I am the rule coordinator for the 13 Hazardous Waste Program. I am here to present the 14 Department's testimony on these amendments to the Hazardous 15 Waste rules, Title 10, Division 25 in your Code of State 16 Regulations. I do want to apologize in advance for the 17 length of our testimony. We do have quite a bit of 18 information to present. We have quite a bit of length of 19 rules to go over. So that's the reason for the length of 20 our testimony. We do have a lot of material to cover. So 21 I just kind of wanted to make that statement in advance. 22 Background, first of all under the structure 23 of my presentation I am going to give you some background 24 information. First of all on why we are changing what we 25 are proposing to change and then follow that up with some</p>
Page 2	Page 4
<p>1 PROCEEDINGS 2 MR. ADAMS: At this point we begin our public 3 hearing. At this point I hereby call this public hearing 4 to order. The public hearing is not typically a forum for 5 the debate of the issue. Rather, the purpose of this 6 hearing is to provide the Department of Natural Resources 7 and the public an opportunity to present testimony on the 8 proposed changes to Chapters 3, 4, 5 and 7 of 10 CSR 25 9 that need to be amended to be consistent with requirements 10 of Section 260.373. 11 At the request of the Commission, the 12 Department will first present testimony on the proposed 13 amendments. Following their testimony, the public will be 14 given an opportunity to comment on the proposed 15 rule-making. A sign-up sheet is provided in the back of 16 the room for anyone in attendance at the hearing. In 17 addition, a comment form for those who wish to make any 18 oral comments. Please fill out a comment form if you wish 19 to be heard. This will aide us in recognizing speakers and 20 calling them to testify. Additionally, we ask anyone who 21 approaches the Commission to testify to please state their 22 name and affiliation, if any, for the record and provide a 23 business card if available to the court reporter and to the 24 Commission's secretary. Written comments will also be 25 accepted at this hearing. Please provide them to the</p>	<p>1 more detailed information on what exactly those changes 2 are. Background: why are we changing these rules? 3 Primarily we are here -- the amendments that we are 4 proposing are related to what we commonly call the "No 5 Stricter Than" statute of Missouri Hazardous Waste Law. 6 It's Section 260.373 RSMo that was passed in 2012 by the 7 General Assembly. Essentially that legislation required us 8 to identify rules in our Missouri Hazardous Waste 9 Regulations that are stricter than federal regulations in 10 certain subject areas. And to identify those that are 11 inconsistent with the federal rules and to take measures to 12 eliminate those from the state regulations by December 31 13 of this year. If we don't do that they will be 14 unenforceable at that point in anyway. 15 Primarily, again, most of the No Stricter Than 16 is first and most primary reason for why we are proposing 17 to amends these rules. That statute applies to Chapter 3, 18 4, 5, and 7 of our regulations. We do have some other 19 rules included in this proposal. Some of those other rules 20 are affected by the changes that we are making to the No 21 Stricter Than chapters. They have references to citations, 22 they use the same definitions, and those type of issues. 23 So we do have to change some of the other rules outside of 24 those chapters as a result of No Stricter Than just because 25 of the connection between the two. And also in going</p>

PUBLIC HEARING 6/18/2015

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1 through all of our rules, as a result of the No Stricter
 2 Than process, we just kind took a look at all of our rules
 3 including those chapters that were not directly affected by
 4 the statute and we found some areas where we identified
 5 changes that needed to be made consistent with the changes
 6 that we were making in response to the No Stricter Than.
 7 Essentially outdated rules and duplicative rules that we
 8 didn't feel continued to be in the Missouri rule. So we
 9 are proposing to get rid of rules in other chapters outside
 10 of the No Stricter Than chapters just to be consistent with
 11 kind of the same purposes. Eliminating state regulations
 12 that no longer are needed.

13 The next purpose for this rule-making is
 14 Missouri rules incorporate by reference, what we call the
 15 Code of Federal Regulations, or the CFR is abbreviation for
 16 that, to July 1, 2013. Currently we incorporate by
 17 reference the July 1, 2010 edition. So what we are
 18 proposing to do is update three years worth of federal
 19 rules. In addition to those three years worth of rules, we
 20 identified two federal rules that were published subsequent
 21 to July 1, 2013 and therefore they are not in that specific
 22 edition of the CFR. But nevertheless, we wanted to go
 23 ahead and add them to the Missouri regulations at this
 24 time. Those two rules will provide some more information
 25 about later, but that's the solvent wipes rule and the

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1 electronic manifest rule. We have 12 of our 14 rule do
 2 incorporate by reference the CFR, so they are affected by
 3 this particular provision where we just need to update the
 4 incorporation.

5 Here you see a list of the rules that are
 6 directly affected by the No Stricter Than statute. The
 7 statute specifies Missouri rules to identify Missouri rules
 8 in these subject areas that are inconsistent with federal
 9 because they require something that the federal regulations
 10 don't require. The four chapters you'll see listed there:
 11 Definitions, Identification of hazardous waste, hazardous
 12 waste generators, and hazardous waste treatment storage and
 13 deposal facilities or TSD's. That rule actually has -- or
 14 that chapter actually has multiple rules in it. But when
 15 we say affecting certain subject areas, the No Stricter
 16 Than statute affecting certain subject areas; those are the
 17 four subject areas that are directly affected.

18 The other chapters in our rules that are not
 19 directly affected, but are indirectly affected because of
 20 the cross citation and using the same definitions; those
 21 type of issues are listed here: transporters, resource
 22 recovery, used oil, and universal waste. Each of those
 23 rules has its own chapter.

24 The rules affected by our incorporation by the
 25 CFR, as I mentioned 12 rules total. All rules in Chapters

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1 3, 4, 5, and 7, as well transporters, used oil,
 2 polychlorinated biphenyls, which is PCB, is Chapter 13; and
 3 then the Universal Waste Rule in Chapter 16. We have one
 4 rule in this package that's a little bit different than the
 5 others, our public participation rule. It's a little bit
 6 different in that it does not incorporate the Code of
 7 Federal Regulations by reference. It's instead of
 8 incorporating by reference, it's a standalone rule where we
 9 took the federal rule in 40 CFR Part 124 and essentially
 10 took all of the necessary required elements of that rule,
 11 wrote those same requirements for the Missouri rule so that
 12 we could make it a standalone rule rather than
 13 incorporating the federal rule by reference. We did it
 14 that way because there is some Missouri unique and Missouri
 15 specific provisions that we wanted to incorporate. So in
 16 this particular rule-making, what we are doing there is
 17 adding a reference to the 2010 -- or excuse me -- removing
 18 a reference to the 2010 CFR since we don't incorporate by
 19 reference we don't need to have a specific date. It just
 20 creates confusion. People think we are incorporating the
 21 federal rule by reference when we are really not. And we
 22 don't have to change that date every time there is a new
 23 edition of the CFR that comes out, which is once a year.
 24 We are removing that date to clarify we are not
 25 incorporating the federal rules by reference for that

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1 particular rule.

2 What are we doing specifically? We are filing
 3 14 proposed amendments to Title 10, Division 25. We are
 4 proposing to adopt six federal rules into the Missouri
 5 regulations. The next slide, this is a list of the six
 6 federal rules that we are proposing to adopt in this
 7 rule-making. Four of these will provide brief remarks on,
 8 and then the other two we will provide more detailed
 9 remarks later in the presentation. The first one: Removal
 10 of saccharin and salts from the list of hazardous waste.
 11 Essentially what that does is just makes these materials,
 12 saccharin and salts resulting from the production of
 13 saccharin, no longer subject to hazardous waste regulation.
 14 I think we might have some facilities in Missouri that
 15 would benefit from the removal of that. And I think the
 16 basis for it was that they determined there was no
 17 justification for managing these materials as hazardous
 18 waste; so that's the first one.

19 The second one is a corrections rule
 20 essentially, the Academic Laboratories Rule. Some updates
 21 to that rule. Missouri adopted the rule when it came out
 22 originally. All this rule does is kind of clarifies and
 23 corrects some of those provisions that were in the original
 24 rule. Treatment standards for carbonate waste, this is not
 25 a commonly or not a waste that is generated in Missouri.

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<p style="text-align: right;">Page 9</p> <p>1 So essentially what they are doing is changing the 2 treatment standards for these wastes. But since they are 3 not generated in Missouri, we don't anticipate an impact. 4 Hazardous waste technical corrections and clarifications, 5 just what it sounds like. They are just fixing some 6 technical citations and references and things in the 7 federal rule. No substantive changes. 8 And the final two, I will provide more 9 information about later in the presentation. These 10 amendments were published in the May 15 Missouri Register. 11 If you have the Missouri Register, they are found on pages 12 626 to 670. For the benefit of the Commissioners, you do 13 have the rule text in your packets. The comment period is 14 mentioned in the opening statement, ends one week from 15 today, June 25 and we are accepting comments at this 16 hearing and in writing or by e-mail through that June 25 17 date. Before we get into the No Stricter Than statute and 18 the changes in response to that statute, we wanted to kind 19 of give you some brief information on some exclusions from 20 that statute. In general what it says is we can't keep 21 anything that is stricter than federal. Here is a list of 22 all of the exclusions to that general limitation on the 23 authority to retain these rules. Essentially for these 24 exclusions you do have the authority to retain, modify, or 25 rescind requirements that fit under these categories.</p>	<p style="text-align: right;">Page 11</p> <p>1 amend it or rescind it. And in this proposal we are 2 actually proposing to rescind the exclusion based on this 3 statutory conclusion. And the hazardous secondary material 4 burned for fuel or recycled are two other federal rules 5 that were not adopted in Missouri that we are proposing at 6 this point to retain our exclusion of the federal rule also 7 in Chapter 4. 8 The first rule in your timeline begins on page 9 626. This is the Definitions Rule, 10 CSR 25-3.260. The 10 first item that we are proposing to change in this rule is 11 elimination of definitions that are inconsistent with the 12 No Stricter Than statute or that are no longer used. We 13 actually found several definitions in this chapter that 14 were terms that were defined in this rule but are not 15 actually used anywhere in our Missouri regulations. So we 16 propose to eliminate those. And we also propose to 17 eliminate definitions that were determined to be 18 inconsistent with the statutory limitations in Section 19 260.373. We are proposing to update the incorporation by 20 reference of the CFR in this rule. 21 Finally, the final bullet says, "Areas of 22 Emphasis" and these are kind of some provisions within each 23 rule in this group of rules that we kind of wanted to 24 provide you with some additional information on the 25 specifics on what that change is going to do within each</p>
<p style="text-align: right;">Page 10</p> <p>1 Behind each of these, you'll see the appropriate chapter. 2 We are proposing to retain our generator threshold found in 3 Chapter 5, that's one of the exclusions. We are proposing 4 to retain registrations also found in Chapter 5. That's 5 related to our hazardous waste reporting, which is tied to 6 our hazardous waste fee structure. Again, reporting of 7 hazardous waste activities to the Department. We are 8 proposing to retain those requirements. There is one 9 qualifier on this one that authority is contingent upon 10 implementation of electronic reporting in Missouri by 11 July 1, 2015 to June 2016 reporting year. And we have 12 taken the steps to implement that electronic reporting and 13 it's currently in the testing phase. So if we satisfy the 14 requirement to have those reporting requirements and to 15 retain those in Missouri. The display of hazardous labels 16 on containers and tanks during storage is another one of 17 the exclusions. I'll talk some more about these specific 18 requirements in Chapter 5. We do have some Missouri rules 19 that are proposed based on this exclusions. And finally, 20 the Zinc Fertilizer Rule and the hazardous secondary 21 material burned for fuel or recycled in Chapter 4. These 22 are two exclusions where federal rules when they came out 23 Missouri excluded those rules from incorporation. The Zinc 24 Fertilizer Rule was an exclusion that we adopted. The 25 statute gives us the authority to retain that exclusion; to</p>	<p style="text-align: right;">Page 12</p> <p>1 rule and each chapter. The first one in Chapter 3 here, 2 there is an owner -- there is a definition of owner and 3 operator in Missouri regulations where we are essentially 4 saying that both owner and operator are responsible for 5 everything. Where one terms is used, they are essentially 6 interchangeable. What we are doing is getting rid of that 7 Missouri definition. By getting rid of that Missouri 8 definition, we are essentially deferring to the federal 9 regulations as far as who is responsible for different -- 10 different responsibilities in hazardous waste regulations. 11 It's also in acknowledgment that regardless of what the 12 Missouri regulations say on who is liable, we are 13 essentially bound by what the statutes say on liability for 14 these different provisions. So we are just getting rid of 15 conflicting language in the rule that mostly just creates 16 confusion on who is liable for what. 17 Second item here is clarification of Missouri 18 definition of used oil. On some of these as we go through, 19 I will point you to the page number to the rule text that 20 it's your packet. This is actually on page 629. We are 21 defining used oils, so it's in definition beginning with 22 the letter U. Essentially what we are doing is we are 23 eliminating Missouri's modification of this particular 24 definition. We have had a long standing Missouri 25 definition that's stricter than the federal definition</p>

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<p style="text-align: right;">Page 13</p> <p>1 because we capture some -- used oil is exempt from 2 regulation of the hazardous waste as long as it's recycled. 3 Missouri in the past has said that you essentially lose 4 that exemption once you spill that material or once it's 5 released into the environment. The federal rule allows you 6 to maintain that exclusion as long as you can continue to 7 manage it under the exclusion. So what we are doing is 8 eliminating that definition that says once it is spilled it 9 become a hazardous waste. By doing that we are following 10 the federal regulation that determine the appropriate 11 regulations that apply at that point. 12 Finally, as I mentioned, just eliminating some 13 duplicative and unnecessary acronyms and definitions. For 14 definitions, some of them are unnecessary because, as I 15 mentioned, they are not used. The terms aren't used in our 16 rules, so we don't need a definition. In this particular 17 rule, the unnecessary acronym is essentially there is some 18 terms defined in there that are just commonly known 19 acronyms. So we don't have to have a definition of it 20 because they are just standardly commonly used in the 21 industry. So there is no real need to have the term 22 defined. 23 The next chapter, Identification of Hazardous 24 Waste. This begins on page 629 in your packet. This term 25 does have some definitions in it, so to the extent that</p>	<p style="text-align: right;">Page 15</p> <p>1 regenerate a small amount of waste from sampling or even a 2 small amount of waste in a laboratory setting. We get some 3 testimony from the University of Missouri that indicated 4 that there was some research related to dioxin materials 5 that ended up going to another state because they didn't 6 want to deal with Missouri waste code. And the small 7 amounts that generate that end up counting significantly 8 toward the generator status. So that type of research had 9 to go to another state because of the Missouri specific 10 requirements. 11 Again, let's see the next item in this rule 12 changes to Missouri definition of used oil and when used 13 oil becomes a hazardous waste. These is essentially the 14 issue we talked about in definitions where we have some 15 language in this rule relating to when used oil is spilled 16 at that point it becomes a hazardous waste. We are getting 17 rid of that Missouri-specific language. By doing that we 18 are just following the federal regulations. At some point 19 that material may become a hazardous waste, but as long as 20 it's recaptured and recycled, it can be managed as used 21 oil. 22 The next item on page 630 this is site-state 23 specific household hazardous waste requirements for 24 treatment storage and disposal facilities. Again, we are 25 dealing with an exclusion here where household hazardous</p>
<p style="text-align: right;">Page 14</p> <p>1 those definitions are inconsistent with the limitations 2 found in Section 260.373, we are proposing to eliminate 3 those. Missouri definitions, we are proposing to update 4 our incorporation by reference of the CFR. Again, some of 5 the areas of emphasis in this rule that we wanted to 6 provide a little bit more information on; the first one 7 elimination of Missouri waste codes. This is actually on 8 page 631 of your packets. We have two Missouri waste 9 codes; one for used oil and one for certain dioxin-related 10 materials. These are historical waste codes where they 11 were established initially so that we could keep track of 12 this material specifically. Where used oil material was 13 going and where these dioxin-containing materials were 14 going. It's historical. It has history behind it in 15 relation to what happens in Times Beach, keeping track of 16 that material, how much was generated and where it was 17 going. But with that in the past we felt we don't see 18 these waste codes commonly. We can still track these 19 materials using the federal waste codes. And by getting 20 rid of Missouri waste codes we are kind of eliminating some 21 state regulations that have caused some problems. The 22 dioxin waste code particularly because it lowers the 23 thresholds to a very miniscule amount of material. We 24 capture some material in that Missouri definition that 25 causes problems when you are remediating cites and</p>	<p style="text-align: right;">Page 16</p> <p>1 waste is exempt from regulation as a hazardous waste in the 2 federal regulation all the way throughout the process but 3 in Missouri the current regulation, essentially ends that 4 exemption at the point that it reaches the TSD. It becomes 5 regulated as a hazardous waste. So by getting rid of this 6 Missouri provision, that household waste will continue to 7 be able to be managed under the household hazardous waste 8 even after it reaches the TSD. So again there will be 9 federal regulations that apply. We are just getting rid of 10 the Missouri-specific regulations. 11 So the second to last bullet you'll see, this 12 is the removal of the exclusion for hazardous waste 13 secondary materials processed into zinc fertilizer. You 14 will find this on page 630 in your packets. Specifically 15 item eight at the top of the right-hand column where we are 16 proposing to eliminate 261.4 A-20, and 261.4 A-21. I have 17 some more details on that coming up in a few slides, so I 18 will kind of defer that additional details until that 19 point. 20 And finally the last bullet; removal of 21 clarifications and interpretations of federal regulations. 22 What we are talking about there is several places in our 23 rules we have language that essentially provides additional 24 guidance on what is required in the federal regulation. It 25 doesn't add anything new. It's just clarification of here</p>

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<p style="text-align: right;">Page 17</p> <p>1 is what you are supposed to do under the federal 2 regulation. It often creates confusion because people see 3 that language and assume there is something additional in 4 the Missouri regulation beyond what is required in the 5 federal and that is not the case. It does help in some 6 situations, creates confusion in other situations. So kind 7 of in the interest of trying to eliminate confusion we are 8 proposing to eliminate those provisions. This slide we 9 have already talked about waste codes for dioxin and used 10 oil. So this is a slide that deals with that. It's found 11 in your packet on page 631, Subsection 2-D in this specific 12 rule. The definition of used oil. Again, this is the 13 provision that deals with when used oil is spilled and when 14 it becomes a hazardous waste and one other provision 15 regarding certain types of used oil and when those types of 16 used oil must be managed as a hazardous waste. We are 17 proposing to eliminate those. You can find this on page 18 630, Item 2-A12 in the rule text.</p> <p>19 Next is the zinc fertilizer exclusion. This 20 one goes back a little while. It was originally adopted in 21 2006. I think at the time that it came out we weren't 22 aware of any federal regulation operating in the state 23 under this exclusion. Since the rule was adopted there was 24 one facility that that was operating with this material, 25 but was not in compliance with the conditions that are</p>	<p style="text-align: right;">Page 19</p> <p>1 essentially for the purposes of transparency and 2 documentation for the record of these particular rules, we 3 wanted to kind of mention them to point out these are 4 long-standing Missouri rules that are going away. So that 5 at some point down the road if somebody is wondering what 6 happened to a Missouri rule on a specific subject, we will 7 have some documentation in the public record for the 8 hearing that these were on the list of requirements that 9 were removed in this specific rule-making. I will just 10 kind of briefly mention some of these. We do have Missouri 11 specific requirements for secondary containment for some 12 types of hazardous waste. Liquid hazardous waste when you 13 reach certain accumulation thresholds that are not in the 14 federal regulation. We do have requirements for 15 contingency plan or personnel training that apply to 16 generators that accumulate a certain threshold or less in a 17 calendar month that are different or go above and beyond 18 the federal regulations. We have Missouri requirements for 19 daily inspections of certain areas that are subject to 20 spills. And we have some specific provisions for what 21 generators are required to do in the event that they have 22 some kind of release or spill. They are required to take 23 immediate remedial action. The federal regulations are not 24 quite as specific in terms of saying that you have do 25 something immediately, but they do require a response.</p>
<p style="text-align: right;">Page 18</p> <p>1 necessary to operate under the exclusion. So since that 2 time, the Department has been working with this facility to 3 kind of get them in compliance. They are no longer in 4 operation. They have actually sent the Department a letter 5 saying they support the removal of this exclusion. So it's 6 the only facility that was affected. They are no longer 7 operating and they support removal of this provision, so 8 that's what we are proposing to do at this point. Our 9 basis for that is that we didn't feel that the standards in 10 that exclusion were protected. So we are going to rescind 11 the exclusion and that exclusion would not apply in 12 Missouri.</p> <p>13 Generators we have quite a bit of information 14 to cover in this particular chapter. It beings on page 631 15 of your rule text on the right-hand column. Again, this 16 one is another rule that updates our incorporation by 17 reference in the CFR. We are proposing to do that here. 18 The first two bullets we have additional slides on coming 19 up; container and tank labeling and satellite 20 abbreviations. So I will just briefly mention those here 21 and provide the details a little bit later. The rest of 22 these areas of emphasis. Essentially what these are 23 Missouri requirements that as a direct result of No 24 Stricter Than we cannot keep these because they are 25 stricter than what the federal regulations require. But</p>	<p style="text-align: right;">Page 20</p> <p>1 They just don't specifically require that it be immediate. 2 Missouri inspection criteria for when inspections have to 3 be conducted in response to certain incidents such as a 4 malfunction or operator error. Missouri specific design 5 standards for storage areas. This is basically storage 6 area where generator is stored. They have hazardous waste 7 containers. Missouri currently has some specific 8 requirements for how those areas need to be designed. 9 Missouri specific prohibition for storage of all volatiles 10 in an open tank. Essentially is just what it sounds like. 11 We limit when you can store those types of material in an 12 open tank. Again, there will be federal regulations that 13 apply. They just will not be as specific as what is in the 14 Missouri regulations.</p> <p>15 Finally we are removing a probation on storage 16 of less than 6,000 kilograms of ignitable or reactive waste 17 that is less than 500 feet from the property line. It's a 18 little bit different than what's in the federal regulation. 19 We do allow -- Missouri does allow storage of this material 20 in some instances where the federal regulations do not 21 allow storage of that material as long as you comply with 22 some certain -- some additional requirements related to 23 fire protection.</p> <p>24 Again, here is more examples of Missouri 25 requirements that we wanted to mention. Also kind of</p>

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<p style="text-align: right;">Page 21</p> <p>1 continuing in the generator regulations, the requirements 2 for management of ignitable, reactive, incompatible, and 3 volatile waste in addition to signage when you close a 4 storage area. We have some specific requirements of what 5 you're supposed to do with if that particular storage area 6 is inactive or if you expect that area to be inactive for 7 one year. We have requirements if you close that storage 8 area if there is no comparable requirement in the federal. 9 Missouri specific exception reporting 10 requirements. Essentially what this is, is when you 11 don't -- when a generator doesn't receive a manifest from 12 the TSD where they sent their waste within the required 13 amount of time, they file a report that indicates they 14 didn't get that manifest so that we can kind of document 15 and follow up on that. We are a little bit different in 16 terms of the federal regulation of how many days elapse 17 before you file that report. By getting rid of this we 18 will just be following the federal. 19 Again, manifest records retention; similarly 20 Missouri is a little bit stricter in terms of how long you 21 have to require -- or excuse me -- retain your manifests 22 versus what's required in the federal regulation. And 23 finally on this slide we do have some duplicate references 24 in our Missouri regulation where we are kind of adding 25 Missouri requirements for emergency response notification</p>	<p style="text-align: right;">Page 23</p> <p>1 retain those; we discussed these container labeling 2 requirements in detail. We did have -- at the end of that 3 process -- we looked at federal only. We looked at some 4 Missouri regulations that were slightly more descriptive 5 that what we ended up proposing, but at the end of the 6 process we did have stakeholder support for what was 7 developed. It wasn't exactly federal only. We do have 8 some Missouri requirements proposed in addition to the 9 federal requirements. But we had received a clear message, 10 we felt, from our emergency responder community 11 particularly, that they preferred to have some Missouri 12 specific requirements on top of the federal regulations, 13 which only require that the words "Hazardous Waste" be on 14 the container. They felt that information was the minimum 15 necessary and didn't provide sufficient information in the 16 event of an incident. So there was actually the statutory 17 exclusion relating to container labeling and tanks was 18 added in response to those concerns during the legislative 19 process. So we felt that those changes were also 20 consistent with what the legislature intent was. By adding 21 that exclusion, we felt that some requirements were 22 justified and necessary and we did hear that message from 23 our emergency responders at the stakeholder meetings. That 24 they wanted some Missouri requirements above and beyond 25 what was in the federal regulation.</p>
<p style="text-align: right;">Page 22</p> <p>1 on top of an existing requirement in the federal 2 regulation. So we are proposing to eliminate that. 3 So that's the final area of emphasis. We do 4 have some specific provisions that we kind of wanted to 5 provide you some additional detail on. These are based on 6 the statutory exclusions that I mentioned earlier as far as 7 Missouri is allowed to retain, modify, or rescind as 8 appropriate, state regulations relating to container and 9 tank labeling. So we are going to provide you with some 10 additional details on what we are proposing and then kind 11 of based on that statutory exclusion. This is found on 12 page 632 to 5.262(2)(C) No. 1 in your regulation if you 13 want to look at the specific language for this. We did 14 want to kind of give you some background on where this 15 container labeling requirements come from. We have been 16 working on changes to this particular portion of the 17 regulation even before the No Stricter Than statute passed. 18 So we were already considering making some changes to this 19 section of the regulations. The No Stricter Than statute 20 kind of reset the table because we had some additional 21 limitations on what we could propose and what we could 22 retain. So through the stakeholder process that we 23 developed after the -- or to implement the No Stricter Than 24 statute where we were identifying the Missouri rules, 25 whether those were inconsistent and whether we wanted to</p>	<p style="text-align: right;">Page 24</p> <p>1 Essentially what we are talking about here is 2 what information is on your hazardous waste containers when 3 they are in storage in your storage area. Our current 4 requirements that are proposing to be amended or rescinded, 5 you have to mark your containers in compliance with the 6 Department of Transportation regulations. Those 7 regulations are essentially detailed requirements in terms 8 of the chemical names that are in that container. Very 9 descriptive, every time you add a different waste in the 10 container you have to update that information. We were 11 looking at modifying those state requirements anyway before 12 the No Stricter Than statute passed and that was at 13 stakeholder request. So their long-standing rule we felt 14 like some changes were necessary, but the No Stricter Than 15 statute kind of reset the table and kind of limited to what 16 we could keep. Consistent with that statutory exclusion, 17 what we were allowed to propose to retain or amend was 18 requirements related to the display of hazard labels 19 specifically. So based on that, the proposed amendment in 20 the regulations would allow generators -- essentially they 21 have two options. They can continue to follow the current 22 Missouri rule, they don't have to change anything. They 23 can continue to mark their containers in compliance with 24 the DOT, or Department of Transportation regulations, and 25 put all of that required information on their containers.</p>

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1 If they just want to continue what they have been doing
2 they can do that. The second option, which is new, is that
3 they can follow the federal rule, and as I mentioned all
4 the federal rule require is the words "Hazardous Waste."
5 But the modification that we proposed is to provide
6 additional words on that container that will tell you about
7 the contents of the container. Essentially in addition to
8 the words "Hazardous Waste" you have to put a label on that
9 container that tells the nature of that hazard of that
10 material, whether it's ignitable, toxic, corrosive, or
11 reactive. And you also have to have a date on that
12 container so that we can keep track of the one year time
13 limit.

14 We do have a new provision also. This was
15 developed through the stakeholder process. That one of the
16 concerns was its difficulty to label smaller containers,
17 like test tube size containers. Some of our generators
18 deal with containers that are that small. So this proposed
19 change would allow for containers that are that small;
20 instead of putting the label on that small container, you
21 can put them on the device in which those small containers
22 are stored. Whether it's a locker or storage shelf of some
23 kind, put the label on the door or on the shelf containing
24 those small containers eliminates that problem of trying to
25 fit a tiny label onto a smaller container.

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1 Next, tank labeling. Again, this is on page
2 633, Item 2(C)(2) in this rule. We do have a fiscal note
3 relating to his labeling requirement that follows this
4 rule. I kind of wanted to point that out as long as we are
5 here. Similar to containers, there is a statutory
6 exclusion that allows us to retain requirements related to
7 the display of hazard labels on tanks. Tanks are just tank
8 structures holding hazardous waste used by generators to
9 store their hazardous waste. Through the stakeholder
10 process, we did develop a consensus on having Missouri
11 requirements. This is a new requirement. We don't
12 currently have Missouri specific requirements for these
13 tanks, but based on the statutory exclusions and the
14 concerns expressed by Missouri emergency responders through
15 the stakeholder process and the legislative process, we did
16 propose to develop some Missouri regulations that are
17 specific to tanks. Essentially what we proposed along
18 those lines is that if you do store hazardous waste in
19 tanks, you have to comply with the National Fire Protection
20 Association Standard 704, which spells out requirements for
21 what types of signs you have to have and how many and where
22 they have to be. They don't necessarily have to be on the
23 container. They can be on the exterior walls and all of
24 that is spelled out within that NFPA standard that we are
25 referencing with this rule.

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1 The next point, satellite accumulation. This
2 also relates to storage by generators within their
3 immediate area of where a particular waste is generated.
4 The term is satellite accumulation, but essentially what we
5 are talking about is storage of that particular material at
6 or near the generator prior to where you move the container
7 into your generator storage area. You'll find this on page
8 634, Item 2(C)(3) in this proposed draft.

9 I also wanted to mention too that in our
10 initial draft of these proposed rules that went out with
11 the regulatory impact report. We did propose to go
12 straight -- what we call straight federal -- on this
13 particular provision where we just eliminate the Missouri
14 regulations entirely. By doing that you are stuck with
15 what is in the federal regulation only. The federal
16 regulations are descriptive in that they limit the quantity
17 of waste that you can store in any one satellite
18 accumulation area. But based on -- we did receive comments
19 on this particular provision during the comment period on
20 the regulatory impact report -- that basically asked if we
21 would consider changing the proposal so that generators
22 would have an option similar to what they have on container
23 labeling where they could follow the Missouri rule or
24 federal rule; whatever they felt was appropriate to their
25 facility. Whatever served their needs best. So that is

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1 what we have proposed. Again, a Missouri option or a
2 federal option. The primary difference is in terms of the
3 volume of waste that you can store in one satellite
4 accumulation area. Missouri allows you to store a greater
5 volume of waste, but we do have a one year time limit that
6 you have to comply with. In return for storing more waste,
7 you have the one year time limit. With the loss of the one
8 year time limit as a mandatory requirement, you have to
9 follow the federal rule and guidance.

10 On the next slide, essentially these are the
11 two options. You follow the federal regulation and what
12 that requires is that you can only have 55 gallons total of
13 hazardous waste of all waste streams in your satellite
14 accumulation area and you can have multiple containers.
15 But the limit on volume of accumulation does pose some
16 problems for generators who have multiple waste streams.
17 So the comments that we received were what we consider
18 keeping Missouri interpretation or you can store up to the
19 55 gallon limit of each waste stream in your satellite
20 accumulation, but with the tradeoff that you have the one
21 year time limit for that material. Once you hit that one
22 year time limit, you have to move those containers out of
23 the storage area or containers, or you have to move that
24 container out of the satellite accumulation area. One
25 container per waste stream. So, again, this is slightly

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1 different. The federal rule allows multiple as long as you
 2 stay under the 55-gallon total waste limit. The Missouri
 3 option you are only allowed one container per waste stream
 4 and you have to move it when it's full or when you hit the
 5 one year time limit. We do require the date of
 6 accumulation on the date of those containers, but we can
 7 keep track of the one year time limit on storage and
 8 satellite accumulation under the Missouri option.

9 We do have some additional requirements if you
 10 choose the Missouri option. It's primarily to allow us to
 11 keep track of which generators are operating under which
 12 option. So you would be required to submit an updated
 13 notification form to the Department so that we can check
 14 the box that you are operating under the federal rule.

15 The next chapter, we are into the
 16 transporters, this is Chapter 6, page 639 of your proposed
 17 rule text. All we are really doing in this chapter is
 18 updating or incorporation by reference of the CFR. So we
 19 don't have any additional details to provide on this
 20 chapter.

21 The next chapter is the first rule in Chapter
 22 7. Chapter 7 relates to treatment storage and disposal
 23 facilities. We also call them TSD's for an abbreviation or
 24 sometimes permitted facilities. This begins on page 639 in
 25 your proposed rule text. Similar to your Chapter 3,

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1 Definitions, we are eliminating definitions in this chapter
 2 that are inconsistent with the No Stricter Than statutes.
 3 Lots of uses of the owner-operator term in here that we
 4 proposed to delete from our Missouri definitions. We are
 5 updating the incorporation by reference in this rule. This
 6 is another rule similar to Chapter 5, Generators, where we
 7 just kind of wanted to give you some additional information
 8 on certain areas of emphasis that will be going away in the
 9 Missouri rule.

10 First is owner-operator responsibilities.
 11 Again, that term is used to determine who is responsible
 12 for what. The next item that we wanted to mention
 13 specifically is we're proposing to eliminate what we call
 14 Missouri's 24-Hour Rule. This is found on page 639, Item
 15 2(A)(3) of this particular regulation at the bottom of the
 16 page. Essentially what this does is limits the length of
 17 time that hazardous waste can be stored outside of your
 18 permitted area once it arrives at the facility. There is
 19 no federal regulation that states this. It's only found in
 20 guidance. So without federal regulation, we are proposing
 21 to eliminate Missouri's 24-Hour rule regulation based on
 22 that guidance and interpretation.

23 Some other provisions that are in this chapter
 24 that are going away that we wanted to mention, Missouri
 25 requirements for imports of hazardous waste. A lot of

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1 designing criteria in this rule for these permitted
 2 facilities relating to surface water monitoring, closure
 3 requirements, financial assurance.

4 The next slide we wanted to kind of mention
 5 specifically we are proposing to retain an option in the
 6 Missouri rules on storage of hazardous waste within 50 feet
 7 of the property line. This one is a little bit different
 8 in that we can retain it because it's not stricter than
 9 federal in that it gives you an option. It has some
 10 additional requirements that you can follow if for some
 11 reason you can't meet that 50 feet requirement that is in
 12 the federal regulation. If your facility is in close
 13 quarters and you don't have that space to work with, the
 14 Missouri regulation allow you to store that waste within
 15 50 feet of your property line as long as you comply with
 16 the additional Missouri requirements essentially related to
 17 the design of the walls and having fire equipment
 18 available. So there is kind of a tradeoff. You can store
 19 that waste closer to your property line, but you have to
 20 meet those additional requirements. It's an option that
 21 has been requested in the past for some facilities that
 22 have difficulty meeting the federal regulation. This is on
 23 page 642, (2)(I), Items 2 and 3.

24 Again, the next bullet, Missouri specific
 25 design and operating standards. There are lots of details

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1 in this rule on how those units are to be designed that are
 2 specific to Missouri.

3 The next item that we wanted to mention
 4 specifically, health profiles. This actually is not just
 5 in response to the No Stricter Than statute, but subsequent
 6 to that statute there was a separate bill. We called it
 7 the permit streamlining bill where we eliminated some of
 8 our state-specific requirements. This was one of those
 9 requirements. Health profiles and a habitual violator
 10 reviews were things we required facilities to do in the
 11 past that were specific to Missouri and unique to Missouri.
 12 But in proposing the bill to eliminate those requirements,
 13 kind of similar to why we are proposing to eliminate some
 14 of these regulations in response to No Stricter Than; we
 15 essentially found they hadn't served their original purpose
 16 and were duplicative and were no longer necessary. So
 17 health profiles, specifically, were one of those Missouri
 18 requirements that actually went away with the elimination
 19 of the statute that provided us authority that required
 20 those. So we had to make corresponding change to the rule.
 21 You can find that on 648, Item (2)(P).

22 The final item in the this chapter that we
 23 wanted to mention specifically, this is railcar management
 24 plans. This is another one that is optional. Essentially
 25 a facility that accepts hazardous waste incoming by

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1 railcar; they can follow the federal regulations, which
 2 they have the 24 hour policy and guidance, although it's
 3 not in regulation. Sometimes that timeframe, even though
 4 it's in policy only, does cause some problems for
 5 facilities who can't get it offloaded quickly enough. They
 6 need a bit more time to prepare for the shipment and
 7 offload the shipment and all those things. So what this
 8 allows them to do is they can have up to ten days to do
 9 that if they submit a railcar management plan to the
 10 Department. And that plan just covers all of the possible
 11 outcomes of emergency response and response to the spills
 12 and releases that might happen during that time period when
 13 they are offloading that material. If they would like some
 14 additional time to do that, they can submit that railcar
 15 management plan and follow the Missouri option essentially.
 16 That's 7.264(3) on page 648 in the proposal.
 17 The next rule is very similar to the previous
 18 rule, 7.264 is treatment storage and disposal facilities.
 19 In this rule is interim status treatment storage and
 20 disposal facilities. A lot of it overlaps with what we
 21 proposed to the previous rule. To the extent that it
 22 overlaps, I won't provide the same information in this
 23 rule. But there are several other provisions that we
 24 talked about that would show up in this rule also.
 25 The next rule in minimal changes proposed to

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1 this one, boilers and industrial furnaces, page 655.
 2 Essentially we are doing here we are updating that date of
 3 incorporation by reference. A couple of emphasis. Mostly
 4 what these are relating to some provisions in this rule
 5 that refer to citations and previous rules that are being
 6 eliminated or moved. So we have to eliminate or move those
 7 references in this chapter.
 8 The next rule, land disposal restriction.
 9 Again, we are updating the date of 2013 of the Code of
 10 Federal Regulations. Only a couple -- only two items here
 11 that we wanted to point out specifically. The
 12 owner-operator issue shows up in this rule, so we are
 13 making a corresponding change to this rule. Second,
 14 relating to the waste code for dioxin and used oil. With
 15 those Missouri specific waste codes, would subject those
 16 wastes to Missouri specific land disposal restriction.
 17 With removal of the waste codes, they won't have those
 18 Missouri specific restrictions on land disposal for those
 19 waste. They will just operate under the federal
 20 regulations for those wastes. 270, this is the hazardous
 21 waste permit process. Couple things that we wanted to
 22 mention in these rules. Again, updating to the 2013 CFR.
 23 We do have some owner-operator references in this rule. A
 24 lot of this is just proposing to remove certain
 25 administrative notification reporting requirements in this

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1 rule. That's a lot of what we are doing is just getting
 2 rid of those state-specific notification and reporting
 3 requirements. One provision that we wanted to point out
 4 that's specific to Missouri that will be eliminated is
 5 relating to seismic evaluation requirements when you are
 6 applying for a permit and whether you have to a seismic
 7 evaluation of your facility if you are in an area that's
 8 subject to seismic activity. This is on page 658, Item 2
 9 (B)(4). Essentially it's just additional details on when
 10 you have to do that evaluation based on the proposed
 11 facility. There are federal rules that do require
 12 additional -- that do require the same thing essentially.
 13 They might define the seismic area slightly differently. I
 14 think that was the reason for the Missouri regulation
 15 initially. But with the removal of the Missouri
 16 regulation, you'll just be operating under the federal so
 17 you will still have to do that if you are in those areas as
 18 defined in the federal regulation.
 19 The next regulation is public participation.
 20 This one is a little bit different in that it doesn't
 21 incorporate by reference the Code of Federal Regulation.
 22 Essentially what we are doing is restating requirements
 23 rather than incorporating by reference. And all we are
 24 proposing to do with this rule is get rid of that reference
 25 to a specific addition of the Code of Federal Regulation.

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1 That just causes confusion because people assume that we
 2 are incorporating that addition by reference. So we won't
 3 have that reference and we will eliminate confusion.
 4 Hazardous waste resource recovery facility.
 5 These are similar to permitted facilities, but they can
 6 engage with resource recovery without obtaining a hazardous
 7 waste permit if they follow the requirements in this rule.
 8 It's kind of slightly different version of a permit that
 9 doesn't have the extensive requirements to obtain a
 10 certification as you would have to get to obtain an
 11 hazardous waste permit. So it's a little bit easier to get
 12 a certification than it is to get a hazardous waste permit.
 13 The main thing here is we use that same term
 14 "owner-operator." So we are just clarifying that we are
 15 going with the federal regulations on terms of who is
 16 responsible for doing different things.
 17 The next rule, page 665, this is used oil
 18 chapter that deals with management of used oil.
 19 Specifically, this one has the same definition that we
 20 talked about back in Chapter 4 when used oil is spilled
 21 into the environment and becomes a hazardous waste. We
 22 propose to make the same changes in this chapter that we
 23 proposed in the previous chapter to be consistent. This
 24 one does incorporate by reference the CFR. So here is
 25 another one where we are proposing to update to 2013. The

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1 definition of used oil here you'll find it in 2A on page
 2 665 of this rule. So again, same change that we proposed
 3 earlier, just eliminating the Missouri-specific definition
 4 of when used oil becomes hazardous waste and kind of falls
 5 out of the used oil world into the hazardous waste world.
 6 And some related definition that used oil contaminated
 7 materials when you have spilled used oil, you clean that
 8 material up with rags and things like that; those are
 9 considered used oil contaminated material. So that
 10 particular regulation tells you how to manage those
 11 materials; whether as a used oil or as hazardous waste. So
 12 with not having the Missouri specific requirement, again,
 13 you'll just follow the federal regulations and there are
 14 federal regulations that apply to this specifically.

15 The next rule polychlorinated biphenyls. The
 16 acronym for that is PCB's. This rule does incorporate by
 17 reference the CFR. So that was one change that we are
 18 proposing to make. The second change that we wanted to
 19 mention specifically, and I apologize it's not up on the
 20 slide, but this was the second change that we made in
 21 response to comments that we received on the regulatory
 22 impact report. The first change was the satellite
 23 accumulation adding the option for Missouri or federal.
 24 The second item that we proposed to change in the rule text
 25 after the IRR was that we are received a comment whether we

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1 would consider treating PCB manifest the same way that we
 2 are treating hazardous waste manifest and the changes that
 3 we are proposing in Chapter 7. Basically we are getting
 4 rid of the Missouri specific requirement on when you
 5 haven't received a manifest, when you have to submit a
 6 report to the state or to Missouri; we are removing that
 7 Missouri specific language. So you will follow the same
 8 requirements for your PCB manifest that you'll be following
 9 for your hazardous waste manifest. And basically the
 10 change will eliminate confusion because I think people are
 11 used to using the same or following the same standard for
 12 their PCB manifest as they follow for their hazardous waste
 13 manifest. If we didn't do that, we would have one
 14 requirement for these types of manifest and a different
 15 requirement for hazardous waste manifest. So to be
 16 consistent and eliminate confusion, we did add that in
 17 after the comment period on the IRR in response to a
 18 comment that we received.

19 Universal waste is the next rule. All we are
 20 doing to this particular rule is changing date of the CFR,
 21 adoption of the CFR.

22 Finally the last couple things that we wanted
 23 to provide you some details on. These are the two federal
 24 rules that I mentioned earlier that would propose to adopt.
 25 These are not in the July 2013 CFR. So we have to propose

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1 to add these rules specifically by pointing to the specific
 2 citation in the Code of Federal Regulations to add these.
 3 The first one is commonly known as the Solvent Wipes Rule.
 4 This rule came out shortly after the July 1, 2013 Code of
 5 Federal Regulations. So it just missed cutoff by a couple
 6 of months. What this does is adds an exclusion to the
 7 federal regulations for what are called solvent wipes.
 8 These are just rags or towels or other similar items that
 9 have been contaminated with hazardous wastes through wiping
 10 or cleaning up spills somehow. So now you have some
 11 hazardous waste on that towel or on that rag and what are
 12 you supposed to do with that towel or that rag. The term
 13 "wipes" encompasses all of those different types of
 14 possible materials. It does modify the federal regulation
 15 on this so that those materials will no longer be
 16 considered as hazardous waste if you follow the conditions
 17 that are laid out in the federal rule. There is two
 18 different exclusions that are proposed to be added to the
 19 federal regulations in 261.4. One for if you use reusable
 20 wipes. These are the type of wipes that once you use them,
 21 you send them to a laundry where they are cleaned and
 22 returned so you can use them more than once. The second
 23 exclusion is for disposable wipes. So there are some
 24 slight differences in terms of what type of wipe you are
 25 using, whether they are reusable or disposable. I also did

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1 want to mention that we have received several inquiries on
 2 this rule from the industry. Probably more on this
 3 particular rule than any other federal rule that I have
 4 gotten inquiries over the time that I have been. Basically
 5 in terms of is Missouri going to adopt this exclusion and
 6 when is it going to go into effect. So there is a lot of
 7 interest in the industry that's engaged in production of
 8 these wipes and management of these wipes to see what
 9 Missouri is going to do with this one. Definitely a lot of
 10 interest.

11 In a nutshell what the proposal would do is
 12 for these wipes that's consistent framework for how you
 13 manage the wipes that's appropriate to the risk level
 14 that's posed by those materials while maintaining
 15 protection of human health and the environment. It is
 16 expected to reduce compliance cost for industry, just by
 17 excluding these materials from the definition of hazardous
 18 waste. Your volume of hazardous waste will be less if you
 19 manage it under the exclusions, so your cost will go
 20 down -- should go down accordingly. In a nutshell, what
 21 you need to do to follow the exclusion there is a time
 22 limit you can accumulate these for up to 180 days. You
 23 have to store them in a non-leaking container, keep it
 24 closed, put a label on the container that says "Exclusion
 25 Solvent Contaminated Wipes." Keep the free liquid out of

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1 the container, keep the containers closed at all times, and
 2 maintain appropriate records so you can document where you
 3 sent your wipes to and how many and that type of thing.
 4 The second rule -- the second federal rule
 5 that we are proposing to incorporate by reference
 6 specifically, again, because of the timing it came out
 7 after the 2013 Code of Federal Regulations. But we did
 8 feel a need to go ahead and add it in this package simply
 9 because in large part because we have that statutory
 10 requirement that we implement electronic reporting in
 11 Missouri by a certain date. So we felt it was important to
 12 adopt this rule in a timely manner and not wait for the
 13 next go around. This relates to manifests. Those are
 14 currently the paper forms that follow your hazardous waste
 15 from the point of generation until the point of disposal.
 16 It tracks how much, what type of waste, where it is going.
 17 Currently you have to use a paper form. It generates a lot
 18 paper with multiple copies. We are shifting to an
 19 electronic system where you will be able to prepare that
 20 form electronically and submit it electronically. The EPA
 21 is currently in the process of developing that system.
 22 They do have two rule plan to implement this. This was the
 23 first of the two. The second is still a couple years on
 24 the horizon yet. The first rule essentially just this lays
 25 the ground work so that electronic manifest will be

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1 acceptable forms of the manifest once the actual system is
 2 available. There will be, again, followed by a second rule
 3 in the future. So we felt it was important to get this
 4 rule in the package and kind of consistent with our
 5 electronic reporting needs.
 6 Finally, the rule-making schedule, just real
 7 quickly, these amendments were published about a month ago,
 8 May 15. Today is the public hearing. The comment period
 9 is open for another seven days, June 25. That's your next
 10 meeting on August 20. We will come back to you with our
 11 recommended changes and response to comments, what we call
 12 the orders of rule-making. Those orders will have all the
 13 comments that we receive, what our recommend response is to
 14 those comments, including whether we propose any changes to
 15 the text of the rule. So we will bring those
 16 recommendations to you at your next meeting. If those
 17 orders are approved by the Commission at that time, you'll
 18 see after that, we'll file those with the Secretary of
 19 State -- the Joint Committee on Administrative Rules first
 20 and then after 30 days with the Secretary of State. You'll
 21 see kind of based on that schedule we except these changes
 22 to go into effect by the end of this year. And again that
 23 would comply with the statutory requirement in the No
 24 Stricter Than statute, which basically says anything that
 25 we determine to be inconsistent is null and void at the end

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1 of the year regardless of whether we make the change to our
 2 regulations or not. So by having these changes in place by
 3 the end of the year, we will eliminate much of that
 4 confusion of what you are supposed to do in Missouri by the
 5 end of this year in terms of hazardous waste regulation. I
 6 think that's all the testimony I had. If you have
 7 questions on any of these, I will try to answer those
 8 questions.
 9 MR. ADAMS: Any questions? If not, thank you
 10 Mr. Eiken. At this point in time it has been called to my
 11 attention that we do have some requests for public comment.
 12 Before we begin with those, I would like to request that
 13 all comments, if you can, let's keep them at 15 minutes or
 14 less due to time constraints please. And we will take them
 15 in order of sign up. The first one is David Shanks.
 16 Again, please as you come forward, tell us who you are and
 17 what your affiliations is, please.
 18 DAVID SHANKS, having been first duly sworn, testifies as
 19 follows:
 20 MR. SHANKS: Good morning, Commissioners. My
 21 name is David Shanks. I'm with the Boeing Company located
 22 at Airport Road and McDonald Boulevard in St. Louis,
 23 Missouri. My comments will be very brief. One is a
 24 statement of appreciation to the extent that we can align
 25 the Missouri rules with the federal rules, it really helps

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1 generators, like Boeing, who do business in multiple states
 2 to reduce the cost of compliance. Otherwise we are having
 3 to do state-by-state specialized training. Also, we moved
 4 folks around quite a bit. So the extent that we move
 5 environmental specialist and aircraft mechanics from one
 6 site, one state to another. It's confusing when the rules
 7 are different in different states. So we certainly
 8 appreciate that.
 9 The exception reporting for completed PCB and
 10 hazardous waste manifest, that's an improvement. If we
 11 don't get the manifest back within 35 days, the way the
 12 Missouri rule today says is okay you contact the TSD
 13 facility or whatever and you try to get it within the next
 14 ten days. The existing Missouri rule says you go ahead
 15 even if you get it within that next ten days, you still
 16 have to file the report with the Missouri DNR. The federal
 17 rule says if you get it within the next ten days, you're
 18 done. So that's just an elimination of letters we have
 19 sent in saying we didn't get it in the 35 days, but now we
 20 have got it. Okay. Just a helpful thing there.
 21 As proposed the two satellite area options
 22 really do help to accommodate the reality of different
 23 waste generation situations. So we have got some areas
 24 like a paint booth mix room that's adjacent to a paint
 25 booth where you are preparing the paint guns and the

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1 cleaning and getting the paint ready. In those areas we
 2 accumulate multiple waste streams. So you would have
 3 excess paint, you would have gun cleaning solvent, we use
 4 gun cleaning solvent. You would have solvent wipes all in
 5 the same location, all in the same satellite area and those
 6 accumulate pretty quickly. So the existing Missouri
 7 approach has been beneficial for those kind of areas. So
 8 we had to put accumulation start date on the one year
 9 limit, but at least it would allow us to fill 55 gallon
 10 drums of each of those waste streams before we had to move
 11 them out. The alternative, the federal approach, would
 12 mean you have to move out partial drums because you counted
 13 it up and you're over 55 gallons.

14 On the other hand the federal guidance, the
 15 option that's based on the federal guidance, works real
 16 well for the other situations we have got. In the open
 17 shop floor, we have got lots and lots of five gallon step
 18 cans where they solvent wipes for the guys they are doing
 19 handwork and they are wiping things and when they are done
 20 with the wipe, they step on the pedal and throw it in the
 21 can and the can sits right next to them. We have got
 22 hundreds and hundreds and hundreds of these things in the
 23 open shop floor. And those are in the same building as the
 24 paint shops. So these aren't in separate generators
 25 locations. So the way we operate presently, we need to

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1 maintain accumulation start date on all of those step cans
 2 throughout the entire facility, even though they are
 3 emptied several times a week. So one year, that's
 4 impossible. There is no way we would get to one year. No
 5 under the federal guidance, that can dating exercise that
 6 we go through would not be necessary.

7 Now unfortunately, the proposed rule before
 8 you today would require us to notify DNR which approach we
 9 would follow for the entire generator ID site. So these
 10 very different accumulation methods are in the same
 11 building. So I mean we really believe that the
 12 notification itself is unnecessary because the inspector,
 13 just by observation, look and say if there is not an
 14 accumulation start date you must be using this option. If
 15 there is, you must be using the other option. So we don't
 16 see the reason for the notification, but if the
 17 notification is thought to be necessary it should at least
 18 provide for the possibility for the generator to say within
 19 this generator ID we would like to use this method. Say in
 20 the paint shops or in the laboratories or in the open
 21 shops, to be able to distinguish within the generator ID
 22 location which method we will use. That concludes my
 23 comments. Any questions?

24 MR. ADAMS: Any questions for Mr. Shanks? If
 25 no, thank you, sir. The next public comment we'll be

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1 receiving is from Mr. Kevin Perry with REGFORM.
 2 KEVIN PERRY, having been first duly sworn, testifies as
 3 follows:

4 MR. PERRY: Very sobering swearing in there.
 5 Good morning, Mr. Chairman. Good morning, Commissioners.
 6 Good morning Commissioners who are on the phone as well.
 7 Before I start my remarks I just want to take a moment to
 8 sincerely commend the DNR staff, the Hazardous Waste
 9 Program staff on this rule. Over the many months that I
 10 have been paying attention to this rule, I can admit that I
 11 have been paying attention to the trees and not the forest.
 12 And over the last few days as I have been preparing for
 13 this testimony, I have really looked at the forest and I
 14 just got to tell you it's impressive what they have done.
 15 They really are to be commended. I'll especially say to
 16 Tim for just doing a phenomenal job. And what I mean by
 17 that they literally have pulled every thread on this whole
 18 sweep of rules. They have really not left anything, a
 19 loose end. They have been extremely consistent. It's
 20 impressive to see the number of options that they have
 21 given generators, like the railcar option, the 50 feet set
 22 back option, satellite accumulation area has options,
 23 labeling has options. I just really have to commend the
 24 staff for doing that. They have been extremely nimble when
 25 these solvent wipes came on board. They are highly

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1 responsive to generators who have made comments. So I just
 2 can't say enough about what an impressive job they have
 3 done on handling this huge task. Way to go.

4 For the record my name is Kevin Perry. I am
 5 with REGFORM, the regulatory environmental group from
 6 Missouri. My office is at 238 East High Street in
 7 Jefferson City. REGFORM is a business association. We
 8 represent businesses and academic institutions that operate
 9 all over the state and these are institutes that must
 10 comply with regulations, including the environmental
 11 regulations and policies that are in front of you for
 12 consideration today.

13 I will cut to the point. I will cut to the
 14 chase. We think this rule is good. We think this rule is
 15 good for Missourians. We support it. We ask that you
 16 support it and vote to adopt it. This is your call. You
 17 have the authority to do this. Sometimes because of the
 18 way the mechanics of this works, we sort of get lulled into
 19 the feeling that maybe the staff has the authority to do
 20 this; they don't. The Governor has the authority to do
 21 this; they don't. The legislature doesn't have the
 22 authority to promulgate regulations in this case; but you
 23 do. So we invite you to do so.

24 What's in this proposed rule, Tim did a great
 25 job on this so I will go really quickly. What's in this is

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1 that it implements the law. The law says there shouldn't
 2 be anymore regs on the books that are inconsistent with
 3 Feds. It also implements changes that stricter than
 4 federal but are specifically accepted in the law. Examples
 5 of those are hazardous labeling and satellite accumulation
 6 areas. It also implements federal rule updates that are in
 7 effect at the federal level, but haven't made it, they
 8 haven't been adopted in the state of Missouri. The big one
 9 of those is the solvent wipes rule, which Tim did a really
 10 nice job of covering.

11 The rule also implements changes that came
 12 into effect in other laws. Tim referred to the health
 13 profiles and the frequent violators reporting. I think the
 14 Department -- people had basically given up hope on these
 15 two. The Department really valiantly went in the
 16 legislature and asked that these two be removed and they
 17 succeeded. Really impressive. That cleans up errors that
 18 are in the law. When you make changes like this and when
 19 you do a thorough of looking through you find things that
 20 are left over from days gone be and those will come out if
 21 and when you adopt this rule. We support these changes and
 22 we ask that you vote to adopt them.

23 This reg package if you adopt it will remove
 24 requirements that MDNR believes are no longer needed, but
 25 aren't necessarily stricter than federal. The Missouri

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1 dioxin waste code is a good example of this. We support
 2 this and we ask that you vote to adopt this.

3 So all of these, even the magnitude of Tim's
 4 presentation alone should be indicative of how big a shift
 5 this is and what's going to happen in Missouri regarding
 6 the rip-effect rules. I guess a reasonable person should
 7 ask should I be afraid? Is this change so dramatic and so
 8 impactful that we are really stepping into dangerous
 9 territory. My response to that is no. These rules have
 10 been thoroughly vetted at the federal level. There has
 11 been lots of technical scrutiny internally, EPA and through
 12 public comment period. And not only that, we have real
 13 live, real world experience with these rules. Even our
 14 neighbor to the north, Iowa, is a federally operated plant.
 15 They are not authorized in the state to do reg craft and
 16 they just don't have the problems that one could imagine.

17 If you listen -- that's amazing. That doesn't
 18 look anything like mine. If you listen to me talk, and I
 19 know I have talked to you about this over the past year or
 20 so, you might get the feeling that Missouri and federal
 21 regulations are a long way apart; but they are not. They
 22 are very close to one another, but they are close enough to
 23 cause confusion. One of the messages that I want to leave
 24 you with today is that confusion really increases the
 25 likelihood that some harm will be done. By the way there

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1 is a note at the bottom that says, you know what there are
 2 some Missouri specific rules that are great. I am going to
 3 ask you later on to keep them. Again, I commend the staff
 4 for doing an awesome job of keeping some options in for
 5 generators.

6 How do we get here? We got here because
 7 Missouri was ahead of the game. Missouri adopted hazardous
 8 waste regulations before federal RCRA came online. Over
 9 time once RCRA came online, in order to become an
 10 authorized state to carry out the federal program, Missouri
 11 had to make changes to its regulations. And, you know,
 12 here we are many, many years later but we continue to hang
 13 on to some of the old things that we really liked when we
 14 were first out of the gate. By the way, just to make a
 15 point; I assume that you will adopt this rule package. And
 16 when you do it will cause the Department to have to submit
 17 re-authorization package to the federal government to have
 18 the whole program re-authorized. RCRA has always been
 19 thought of by reasonable people as a complex and mysterious
 20 thing. Unless you are highly qualified, here I use the
 21 words a Jedi knight or powerful wizard; it's probably an
 22 area that you should stay away from. There is a lot of
 23 pitfalls. There is a lot of traps to get into.

24 Here is a little homage to Tom. Tom Judge has
 25 been around here, just a well-known Missouri RCRA master.

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1 And he deserves the credit he gets for having a black belt
 2 in RCRA. And may he enjoy the retirement. I'm sure our
 3 DNR staff would take him back in a heartbeat because the
 4 ability to make sense of RCRA and take it all in is really
 5 a phenomenal thing. But the truth is, time marches
 6 forward. We know have academic programs that we didn't
 7 have 20 years ago. But people are graduating from training
 8 programs with a lot of sophisticated understanding,
 9 broad-based experience of RCRA. We have certification
 10 programs that are documenting that experience. And the
 11 truth of what David said is these environmental
 12 professionals who have these experience and understanding
 13 of RCRA are moving all over the United States. They are
 14 being transferred by their own companies, they are taking
 15 new jobs. The experience with RCRA is portable until you
 16 come to Missouri. There is just enough difference in
 17 Missouri that you almost have to start over again. So this
 18 move of bringing Missouri regs closer into alignment with
 19 the federal regulation is powerful and positive. I said
 20 this earlier, the confusion between the two sets of
 21 books -- I'm going to give an example here alter on where I
 22 have to retract part of my testimony that's in your slide
 23 because as I was going through I got confused. I am wrong
 24 about the used oil definition, which we will talk about
 25 later. It's just tough to compare those things

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1 side-by-side. That confusion I think can lead to some
 2 unfortunate situations.
 3 So I will just say it, we think it's a benefit
 4 to Missouri to have our rules match the federal rules as
 5 closely as possible. They can never be identical because
 6 of Missouri state law.
 7 So I guess just a really quick recap. I vote
 8 to adopt the rule package that implements the No Stricter
 9 Than changes. First of all it's the law. If we have these
 10 things on the books on December 31, we are in big trouble.
 11 We have got a bunch of regulations that are nullified that
 12 are sitting out there and confusing people. And the other
 13 things is I think that where we are in a gray area where
 14 it's not clear. We aren't absolutely consistent with
 15 federal, we are inviting somebody who gets an NLV to start
 16 a challenge. So I think that's trouble that can be
 17 avoided. The other area has to do with passages in the
 18 regulation that are stricter than federal, but are
 19 specifically accepted in the No Stricter Than law. Why
 20 should we adopt those, because the stakeholder process
 21 really came through and recommended those. I think they
 22 have had a significant amount of vetting. One of the great
 23 things that have come out of that is it removes the
 24 confusing DOT labeling requirement. If you guys have
 25 questions about what are the source of that confusion on

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1 DOT labeling, I would be happy to interact with you. I'm
 2 happy to answer questions that you have now about that.
 3 But because of what's in this proposed regulation now, some
 4 of that DOT labeling confusion and sort of a gotcha
 5 situation goes away. One of the things that was happening
 6 is people were being required to put a DOT label on a
 7 containment that they knew was never going to be offered
 8 for transportation. So you could see how that would be
 9 confusing to people. Now they have an option to not do
 10 that. The other thing is we will be able to keep the
 11 Missouri interpretation on how to operate a satellite
 12 accumulation area. As David talked about earlier, it's a
 13 critical thing when you consider the different types of
 14 operations that can be in effect even in the same building.
 15 Why vote to adopt the rule package that has
 16 federal updates? This brings Missouri bank into alignment
 17 with most current federal rules. It eliminates confusion
 18 and conflict. It eliminates the widely demand of solvent
 19 wipes rule, yea. And one thing it does is it keeps the
 20 program on a nice routine schedule of regularly adopted.
 21 How am I doing, Mr. Chairman?
 22 MR. ADAMS: You're coming along well.
 23 MR. ADAMS: Twelve minutes. Implements other
 24 changes in Missouri law. Again, why vote to get rid of
 25 these provisions that require health notes, because it's

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1 the law. We don't want them in there if they are not doing
 2 what they are supposed to do. And then clean up should be
 3 self-evident. Why have something codify that we
 4 really don't need. And the same with the like the dioxin
 5 codes. They are no longer useful in the state. Let's get
 6 them off the book. That's John Kennedy. Wikipedia tells
 7 me that during his campaign, he had a campaign slogan, "We
 8 can do better." And I love this rule. It's a good thing
 9 for Missouri. It's a good thing for Missouri. And I hope
 10 you'll adopt and I always think that we can do better.
 11 What I'm going to ask you to do is hard. It's difficult
 12 and that's going to be to offer amendments and changes
 13 covering some of these definitions and also addressing the
 14 labeling requirements that's been proposed. Also the tank
 15 requirements and the restrictions on satellite
 16 accumulations.
 17 By my count I went through and found 22
 18 definitions in Missouri state regulations that are not in
 19 the federal regulations. I am asking you to remove those.
 20 I hear the staff when they say those definitions or some of
 21 those definitions are useful in other parts and other
 22 chapters. And to that I say if they are useful in other
 23 chapters, let's move them in the other chapters now while
 24 those chapters are open. Because the law specifically says
 25 you can't have stuff that's stricter than federal. So

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1 let's get them out and move them on. There is also -- I
 2 have four on here, but now that I have listed to Tim's
 3 presentation and looked at what he said, there is really
 4 only three. The definition of hazardous waste, the
 5 definition of transporter and the definition of universal
 6 waste they are illegal. I could be informed about that,
 7 but the federal law, the federal definition are on the
 8 books and they don't match the state definition. And so
 9 the state law says you can be equal to the federal
 10 definition, or you can meet a specific standard that is
 11 written in some other Missouri statute. I don't find that.
 12 I do find that for hazardous waste. I don't find it for
 13 the other two. So I am happy to withdraw my remarks on the
 14 other two if we find those in statutes, but I think it's
 15 risky to leave those definitions in place. We are inviting
 16 a legal challenge if we do.
 17 In the past the Department has countered that
 18 criticism by saying we are relying on the general
 19 authority. The Commission has to define hazardous waste
 20 and other things. I just wanted to acknowledge that I
 21 think the whole purpose of the law, the No Stricter Than
 22 law, is to limit the general authority of the Commission so
 23 that -- and that limit, as some people, say, you know, that
 24 couldn't possibly be the meaning otherwise it would make
 25 the Commission purposeless. I disagree. It does not take

<p style="text-align: right;">Page 57</p> <p>1 power away from the Commission. Commission have very many 2 important and purposeful rules. I also want to ask you to 3 remove the Missouri unique hazard labeling requirements. 4 If you remove the passage that's cited there, basically 5 what will happen is the subsection will default to the 6 federal standards. I don't want to be misunderstood about 7 our relationship with First Responders. The First 8 Responders want to know what's in those buildings when they 9 go into them and they have said so. And the way for them 10 to know, according to federal regulations, is for 11 generators to comply with federal regulations and invite 12 First Responders into their facility and familiarize them 13 what is there. It became absolutely clear during the 14 stakeholder process that's not happening. It's a bigger 15 issue with smaller quality generators. The solution is not 16 putting a label on a container that you can only see from a 17 distance away. The solution is enforcing the regulation 18 that requires people to prepare first responders well 19 before they get in the building so that they know. I think 20 the solution to this problem is not hazard labeling; the 21 solution to this problem is a compliance program where we 22 reach those people who are not reaching out to their local 23 first responders. That's what shows respect for and 24 protects first responders. Not a label they have 25 difficulty seeing under difficult circumstances. I also</p>	<p style="text-align: right;">Page 59</p> <p>1 of the tank clearly says "hazardous waste." You can see it 2 right behind the shade. So it wouldn't surprise me if 3 people do it, but if you are in compliance with NFP before 4 and you didn't have a diamond on your tank, you would not 5 be violating Missouri State regulations if this were 6 adopted. 7 I just want to echo what David said about 8 giving people the option. The Department has told us that 9 they don't want to give anybody in the single facility the 10 option at any two satellite accumulation areas to comply 11 with either the federal or the state. And that they want 12 to be noticed up in advance which one you are going to do 13 in your whole facility. I think it's a very simple logic 14 test. And I have tried to lay it out here how to determine 15 whether a generator is using the state or the federal 16 system. It has to do exactly with what David says. If 17 there are accumulation start dates on there, then they are 18 attempting to comply with the state system. And so given 19 that it's -- that they are attempting to comply with the 20 state system, then you clearly know what the violations 21 are. If it's there longer than a year, it's a violation. 22 So the logic of it is simple. You can even do the logic in 23 the reverse. You can come up and look at the quantity of 24 containers or number of containers and you can work 25 backwards. So I just want to invite the Commission to move</p>
<p style="text-align: right;">Page 58</p> <p>1 want to ask you to stay away from the new tank labeling 2 requirement. We have a long history of not having tank 3 labeling requirements in the state of Missouri and we don't 4 have a problem with it. If we are going to require some 5 labeling requirements, then the NFP704 is the way to go but 6 we don't have that problem. The fiscal note itself says 7 there are very few tanks in the state of Missouri. So I'm 8 just inviting the Commission to step back from this and say 9 you know what we have gone this far without it, there is 10 really no need for it. Again, if we familiarize the local 11 first responders, this will be handled. 12 I also want to make clear that if you go out 13 and read NFP704, I was really glad to hear Tim say this in 14 his presentation. The NFP704, unlike what is said in the 15 multiple times in the fiscal note, refers to putting labels 16 on the tank. If you read NFP704 it says nothing about 17 putting labels on tanks. It says putting it on two outside 18 walls. It says access ways to areas of the building that 19 contain, but it never says on the tank. I don't know if 20 you can see this photograph very well but the photograph 21 here shows that whoever set up these tanks, chose to put 22 their NFP704 diamonds right on the tank. So it's not 23 unusual that somebody would do that. But absent an NFP 24 diamond on a tank is not a violation. So I will just reach 25 over and show you. That's an NFP diamond right on the side</p>	<p style="text-align: right;">Page 60</p> <p>1 beyond the recommendation of staff here and adopt the 2 satellite accumulation area option, but don't impose the 3 restricting that I must notified up and I must pick only 4 one approach in any building. David's testimony I think 5 really supported that. 6 I really appreciate the time that you have 7 given me today. This is an important rule. I'm glad that 8 you could stick with me on time. If you hear one thing 9 from me I hope that you hear that this is a great rule. 10 It's good for Missouri and we invite you to adopt it. The 11 thing I'm asking you to do harder. I will send you some 12 comment letters in writing so that you know what I'm asking 13 for and I hope you'll consider it. I would really 14 appreciate if you would. Thank you, Mr. Chairman. Thank 15 you, Commissioners. If you have questions, I'm happy to 16 try to take a shot at them. 17 MR. ADAMS: Anyone have any questions for 18 Mr. Perry? If not, thank you. Next one to bring a comment 19 will be Jamie from Wal-Mart. And I will allow you to 20 introduce yourself. I'm sorry I can't read your last name. 21 MR. HUENS: Well, actually I don't have any 22 comments. I thought I was signing the sign-in sheet. So I 23 don't want to make any comment. 24 MR. ADAMS: That's quite a comment, thank you. 25 Next will be Donnie Greenwalt from Wallis Companies.</p>

1 MR. GREENWALT: Apparently I made the same
2 mistake.

3 MR. ADAMS: Thank you guys for your brief
4 comments. We really do appreciate that in this hearing.
5 Next then will be Carol Eighmey with PSITF. She did the
6 same thing. Well then, brief comment period. Thank you
7 for all that. Mr. Director, do we have anything else with
8 regard to this hearing?

9 MR. LAMB: We should not. That would be all
10 the testimony.

11 MR. ADAMS: All right. With that, I would
12 like to, again on behalf of the Commission, thank the staff
13 and Department as well as all of you with your public
14 comments. This hearing part of this meeting is now
15 officially closed.

16 (Hearing concluded at 11:45 a.m.)
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1 CERTIFICATE OF REPORTER
2 STATE OF MISSOURI)
) ss.
3 COUNTY OF COLE)

4 I, Jenna Petree, Certified Court Reporter, do
5 hereby certify that the witness whose testimony appears in
6 the foregoing deposition was duly sworn by me; that the
7 testimony of said witness was taken by me to the best of my
8 ability and thereafter reduced to typewriting under my
9 direction; that I am neither counsel for, related to, nor
10 employed by any of the parties to the action in which this
11 deposition was taken, and further that I am not a relative
12 or employee of any attorney or counsel employed by the
13 parties thereto, nor financially or otherwise interested in
14 the outcome of the action.
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17 Certified Court Reporter
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Hazardous Waste Management Commission Meeting

August 20, 2015
Agenda Item # 3

Public Hearing – Proposed Amendment to 10 CSR 25-12.010 Hazardous Waste Fees and Taxes Rulemaking

Issue:

Sections 260.380.1(10)(d) and Section 260.475.8 RSMo give the Missouri Department of Natural Resources the authority to work with stakeholders to develop recommendations for changes to the hazardous waste fee structure, and for the Hazardous Waste Management Commission (HWMC) to approve those recommendations.

On June 15, 2015, the Department filed a proposed amendment of 10 CSR 25-12.010. This proposed amendment adjusts the hazardous waste generator registration and renewal fee, the in-state fee for hazardous waste generated in Missouri, as well as the minimum and maximum amounts for the in-state fee, and the land disposal fee for hazardous waste land disposed in Missouri. The proposed amendment was published in the Missouri Register on July 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 August 27, 2015.

Upon the closing of the public comment period the Department will respond to comments received and prepare an order of 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 October 15, 2015, meeting.

Recommended Action:

The Commission to hear testimony on the proposed amendment of:
10 CSR 25-12.010, Hazardous Waste fees and Taxes

Presented by:

Mr. Tim Eiken – Rule Coordinator, HWP

Chairman Adams'

OPENING STATEMENT

Public Hearing

**Proposed Amendment to 10 CSR 25-12.010
Hazardous Waste Fees and Taxes Rulemaking**

Hazardous Waste Management Commission Meeting
August 20, 2015

Opening Statement for the Public Hearing on the proposed amendment of 10 CSR 25-12.010.

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 10 CSR 25-12.010, Hazardous Waste Fees and Taxes.

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 August 27, 2015.

Missouri Hazardous Waste Management Commission

Public Hearing on Proposed
Changes to Hazardous Waste Fee Structure
August 20, 2015

Presentation Overview

- Background - Why the change?
- Proposed Amendment - What changes are proposed?

Statutory Background – Fee Rule

- Fee structure last changed in 2005 – SB 225
- Law amended in 2013 (HB 28 and HB 650)
- Established process for revising fee structure through stakeholder and commission process
- Language added to Section 260.380.1(10)(d) and 260.475.8

Statutory background cont.

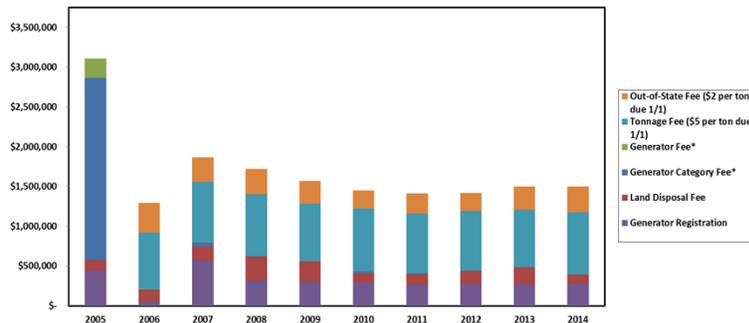
- Statute requires stakeholder input and commission approval to move forward with proposed rule containing fee recommendation
- Stakeholder process completed in March 2015 – recommended moving forward
- Proposal presented to commission in April 2015 and approved by commission on June 11, 2015

Background cont.

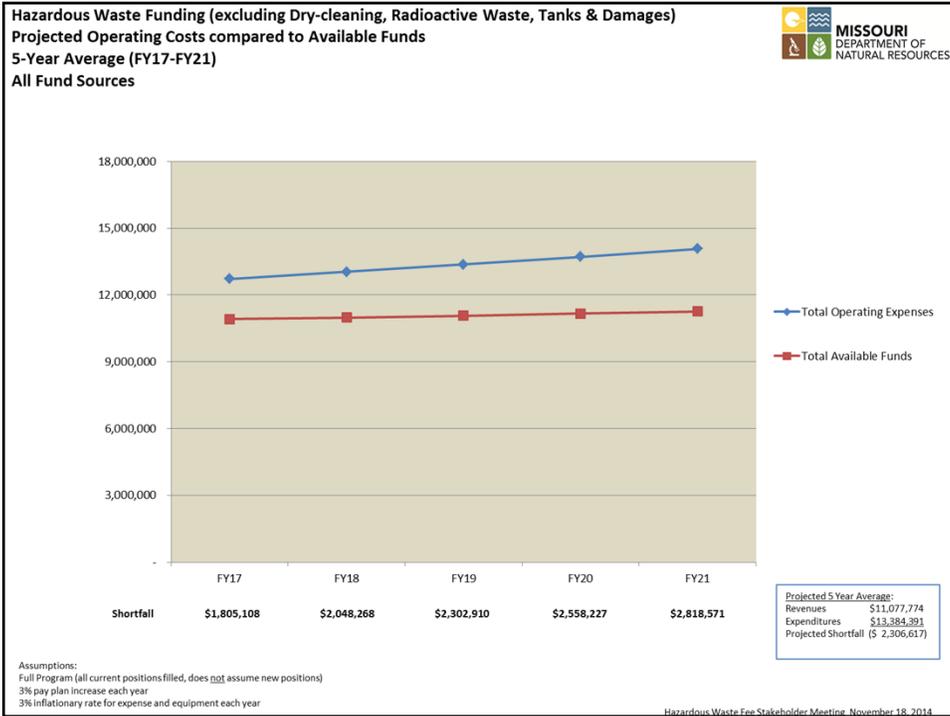
- Department's fee workgroup efforts focused on trying to obtain agreement on a reasonable fee increase
- Department projects funding shortfall and proposed changes would address a portion of the shortfall
- Subsequent to stakeholder process, EPA projecting significant cuts in grant funding which would impact the department's funding for RCRA activities

Hazardous Waste Trends

**Hazardous Waste Generation Fee Trends
by Fiscal Year Revenue was Collected**



* Note that FY 2005 reflects the historic fee structure. The Generator Category Fee and Generator Fee are not in the current fee structure. In subsequent years, amounts received in these categories relate to reporting corrections and collections from reporting years prior to the fee change. The historic revenue structure split generator category and land disposal fees into two funds. Statutory changes in 2004 directed the consolidation of those funds. Fees consolidated in both funds are reflected in this chart. The funding structure change added a battery fee and shifted some obligations to general revenue.



Development of proposal

- Five stakeholder meetings held – beginning in November 2014
- Department provided information about budget, revenues, and expenditures
- Fee structure compared to other states
- Stakeholders provided input about impact of fees

Fee Proposal Development cont.

- Different scenarios with different fee amounts for individual fees were discussed
- Stakeholders had opportunity to assess impact of each proposal on the fees they pay
- Stakeholders kept informed through notices sent out to various email groups prior to each meeting
- Notice also included in generator fee mailing in November 2014

Details of Proposal

- Hazardous waste generator registration and renewal fee - increased from \$100 for all generators to \$150 for conditionally-exempt and small quantity generators and \$500 for large quantity generators
 - Would also include an exclusion that would allow multiple sites in close proximity operated by a single entity to pay a single large quantity generator registration and renewal fee
- In-state fee for hazardous waste generated in Missouri – increased from \$5 per ton to \$6.10 per ton
- Minimum amount for in-state fee – increased from \$150 to \$200 and minimum to be applied to the first ton of waste

Details of Fee proposal cont.

- Maximum amount for in-state fee – increased from \$52,000 to \$57,000
- Land disposal fee for hazardous waste land disposed in Missouri – increased from \$25 per ton to \$29.50 per ton or partial ton
- Proposal projected to generate approximately \$500K in additional revenue to Hazardous Waste Fund

Proposed Amendment - What Are The Changes?

- One rule will be amended to implement recommendations of Hazardous Waste Fee Stakeholder Workgroup
- 10 CSR 25-12.010 – Hazardous Waste Fees and Taxes

10 CSR 25-12.010

- The portion of the rule relating to each fee must be amended to reflect changes to the rates
- Other changes proposed to fee structure:
 - Charge the minimum in state fee on first ton of waste
 - Transition language for generator registration and renewal fee and other fees based on reporting year
 - New generator registration and renewal fee to be collected for calendar year 2017

10 CSR 25-12.010 – Other changes to rule text

- Fees based on reporting year – new rates apply for reporting year that begins on July 1, 2016 and ends on June 30, 2017
- Fees based on reporting year – old rate applies for all reporting years prior to July 1, 2016-June 30, 2017
- Require the per ton fee rate be paid for a partial ton for the land disposal fee
- Exclusion for multiple sites to pay a single Large Quantity Generator registration fee under certain conditions

Proposed Amendment

- Published in July 15 Missouri Register (40 MoReg 872)
- Comment period ends on August 27, 2015

Rulemaking Schedule

- July 15, 2015 - Proposed amendments published in *Missouri Register*
- August 20, 2015 - Public Hearing with HWMC
- August 27, 2015- End of Public Comment period
- October 15, 2015- Final adoption of rules by HWMC
- November 25, 2015 - Orders of Rulemaking filed with Sec. Of State
- January 4, 2016, 2015 - Orders of Rulemaking published in *Missouri Register*
- January 1, 2017 - Rulemaking effective (If no action by General Assembly)

QUESTIONS ?

political subdivisions more than five hundred dollars (\$500) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by sending the same to: General Counsel, Department of Economic Development, 301 W. High Street, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 12—Hazardous Waste Fees and Taxes**

PROPOSED AMENDMENT

10 CSR 25-12.010 Fees and Taxes. The commission proposes to amend the purpose statement and section (1) and authority section of the rule.

PURPOSE: The proposed amendments of this rule relate to the hazardous waste fee structure for hazardous waste generators and permitted hazardous waste treatment, storage, and disposal facilities in Missouri. Sections 260.380.1(10)(d) and 260.475.8, RSMo, give the Missouri Department of Natural Resources the authority to conduct a comprehensive review of the hazardous waste fee structure and to develop proposed changes to the fee structure. These changes were developed by the Hazardous Waste Fee Stakeholder Workgroup.

PURPOSE: This rule identifies fees and taxes assessed generators; transporters; applicants for licenses, certifications, and permits; owners/operators of hazardous waste treatment, storage, resource recovery, and disposal facilities; and persons seeking variances. (Note: The department bills for the Department of Revenue but is not the collector of fees or taxes for Missouri.) This rule is in addition to federal requirements. The fees in this rule are based on the authority in sections 260.380.1(10)(d) and 260.475.8, RSMo, to revise the hazardous waste fee structure through the rulemaking process. The fees established in this rule are in effect notwithstanding any conflicting language in any other rule regarding the amount of any of the fees listed in this rule.

(1) Hazardous Waste Fees Applicable to Generators of Hazardous Waste. **The fees in this section apply notwithstanding any conflicting language in any other rule regarding the amount of any of the fees listed in this section.**

[(A)] A generator of hazardous waste shall pay a fee annually in accordance with section 260.380.1(10), RSMo. This fee shall be referred to as the In-State Waste Fee. The fee shall be paid annually, on or before January 1 of each year, at the rate of five dollars (\$5) per ton or portion thereof for the hazardous waste reported to the department for the twelve (12)-month period ending June 30 of the previous year. The fee shall not be less than one hundred fifty dollars (\$150) and not more than fifty-two thousand dollars (\$52,000) annually per generator site. 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.

EXAMPLES OF IN-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports 25 tons of hazardous waste:

$$\$5 \times 25 \text{ tons} = \$125 \text{ fee}$$

The fee would be \$150, because that is the minimum annual fee.

Example 2. ABC Company reports 41.3 tons of hazardous waste.

The number of tons would be rounded to 42:

$$\$5 \times 42 \text{ tons} = \$210 \text{ fee}$$

Example 3. ABC Company reports 11,000 tons of hazardous waste:

$$\$5 \times 11,000 \text{ tons} = \$55,000 \text{ fee}$$

The fee would be \$52,000, because that is the maximum annual fee.]

(A) In-State Waste Fee. A generator of hazardous waste shall pay the In-State Waste Fee annually in accordance with this subsection.

1. The fee shall be paid annually on or before January 1 of each year.

2. The fee shall be based on the waste reported to the department for the twelve- (12-) month period ending June 30 of the previous year.

3. For the purpose of calculating this fee, any portion of a ton shall be assessed as though it were a whole ton.

4. Beginning with the reporting year covering July 1, 2016 to June 30, 2017, the first ton of waste generated each year shall be assessed a fee of two hundred dollars (\$200). For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the minimum fee shall be one hundred fifty dollars (\$150).

5. Beginning with the reporting year covering July 1, 2016 to June 30, 2017, each additional ton of waste shall be assessed a fee of six dollars and ten cents (\$6.10). For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the rate shall be five dollars (\$5) per ton.

6. Beginning with the reporting year covering July 1, 2016 to June 30, 2017, no generator site may be assessed a fee in excess of fifty-seven thousand dollars (\$57,000) for any given year. For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, no generator site may be assessed a fee in excess of fifty-two thousand dollars (\$52,000) for any given year.

7. Failure to pay this fee in full by the due date shall result in the imposition of a late fee equal to fifteen percent (15%) of the total original fee.

EXAMPLES OF IN-STATE WASTE FEE CALCULATION
(These examples are for the rates that go into effect beginning with the July 1, 2016 to June 30, 2017 reporting year.)

Example 1. ABC Company reports 0.4 tons of hazardous waste. The number of tons would be rounded to 1 ton.

The fee would be \$200 because the fee on the 1st ton of waste is \$200.

Example 2. ABC Company reports 25 tons of hazardous waste.

$$\$6.10 \times 24 \text{ tons} + \$200 \text{ for 1st ton} = \$346.40 \text{ fee}$$

Example 3. ABC Company reports 11,001 tons of hazardous waste.

$$\$6.10 \times 11,000 \text{ tons} + \$200 \text{ for 1st ton} = \$67,300 \text{ fee}$$

The fee would be \$57,000, because that is the maximum annual fee.

[1.18. Hazardous waste that is discharged by a generator to a municipal wastewater treatment plant, which is regulated by a permit issued by the Missouri Clean Water Commission, shall be assessed a fee of zero cents per ton (0¢/ton) of hazardous waste so managed.

(B) [A generator required to register in accordance with 10 CSR 25-5.262 shall pay a land disposal tax in accordance with section 260.475, RSMo.] Land Disposal Fee. A generator required to register in accordance with 10 CSR 25-5.262 shall pay a land disposal fee in accordance with this subsection. Beginning with the reporting year covering July 1, 2016 to June 30, 2017, the fee shall be paid annually, on or before January 1 of each year, at the rate of twenty-nine dollars and fifty cents (\$29.50) per ton or portion thereof for the hazardous waste reported to the department for the twelve- (12-) month period ending June 30 of the previous year, having been discharged, deposited, dumped, or placed into or on the soil as a final action. For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the rate shall be twenty-five dollars (\$25) per ton. This fee shall not be assessed on generators who land dispose less than ten (10) tons of hazardous waste.

1. Failure to pay this fee in full by the due date shall result in a fifteen percent (15%) late fee being assessed on the amount owed.

2. When this fee is paid after the prescribed due date, interest shall be assessed on the period from the fee's due date to the date the fee is paid in full at an annual rate of ten percent (10%).

EXAMPLES OF LAND DISPOSAL FEE CALCULATION
(These examples are for the rates that go into effect beginning with the July 1, 2016 to June 30, 2017 reporting year.)

Example 1. ABC Company reports land disposing 9.8 tons of hazardous waste. The fee would not be assessed since less than 10 tons of waste was land disposed.

Example 2. ABC Company reports land disposing exactly 10 tons of hazardous waste.

\$29.50 x 10 tons = \$295 fee

Example 3. ABC Company reports land disposing 124.3 tons of hazardous waste. The number of tons would be rounded to 125.

\$29.50 x 125 tons = \$3,687.50 fee

(C) A generator required to register in accordance with 10 CSR 25-5.262[*, in accordance with section 260.390.2, RSMo,*] shall pay a landfill tax of two percent (2%) of the gross charges and fees charged for disposal, which is collected by the landfill owner/operator when depositing waste at a hazardous waste landfill.

(D) The department will bill those generators whose records on file indicate that they are subject to [*taxes or*] the fees in section (1). However, if a generator does not receive a billing, it does not relieve the generator of the responsibility to pay the fees [*or taxes*] imposed by this rule.

(E) **Registration Fee.** A generator required to register in accordance with 10 CSR 25-5.262 shall pay the following registration fees:

1. Prior to October 1, 2016, all new generator registration and registration renewal fees will be one hundred dollars (\$100). Beginning October 1, 2016, all new generator registration and registration renewal fees that will cover calendar year 2017 will be assessed at the new rates established in this subsection. The amount of the registration fee will be based upon the generator status of the generator. The fee schedule is as follows:

A. A generator registering as a Large Quantity Generator (LQG) shall pay a registration fee of five hundred dollars (\$500);

B. A generator registering as a Small Quantity Generator (SQG) shall pay a registration fee of one hundred fifty dollars (\$150); and

C. A generator registering as a Conditionally Exempt Small Quantity Generator (CESQG) shall pay a registration fee of one hundred fifty dollars (\$150);

2. A registration fee will be paid with the submittal of the registration form required by 10 CSR 25-5.262 when one (1) of the following is true:

A. The generator is applying for a new ID number (initial registration);

B. The generator is reactivating an existing ID number that had been inactivated;

C. There has been a change in the ownership of the generator (initial registration for the new company); and

D. A SQG or CESQG who changes their generator status to LQG and has already paid the one hundred fifty dollar (\$150) registration fee for the year as required by this subsection shall pay three hundred fifty dollars (\$350) with the submittal of the required registration form;

3. The following constitutes the procedure for registration renewal:

A. The amount of the registration renewal fee is also based upon the generator status of the generator at the time the invoice is generated and uses the same schedule as the registration fee;

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

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

D. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but shall not pay the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, they shall pay the annual renewal fee. For any generator registering between October 1, 2016 and December 31, 2016, the initial registration fee will be assessed at the new rates established in this subsection for the calendar year that begins on January 1, 2017;

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

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

G. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay a fifteen percent (15%) late fee in addition to the required annual renewal fee and file an updated generator registration form with the department before their registration is reactivated by the department; and

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

4. Large quantity generator registration renewal petition process. A generator may petition to have a single large quantity generator registration renewal fee cover multiple generator sites with different ID numbers as long as at least one (1) generator site is a large quantity generator and the generator can demonstrate to the satisfaction of the department that each of the following conditions has been met:

A. All of the generator sites are owned or leased by the same person, and all are under control of the same person;

B. The generator provides a single point of contact for all generator sites within the group;

C. Each generator site is adjacent to a property that also shares a border with at least one (1) other generator site in the group, or all generator sites are accessible by a common roadway, or all generator sites are within the recognized boundaries of an industrial park, warehouse district, research campus, or academic campus, provided that all generator sites are in close proximity to one another and can be inspected as a single facility;

D. The generator submits a map that shows the location of each generator site covered by the single registration fee;

E. All of the generator sites share a single contingency plan, a single repository for required records, and a unified training plan that covers all of the large quantity and small quantity generator sites; and

F. The generator must submit an updated petition and map any time a generator site is added to or removed from the group and each generator site must have an existing ID number before it can be added to the group.

(F) **Out-of-State Waste Fee.** All owners/operators of Missouri treatment, storage, or disposal facilities shall pay annually, on or before January 1 of each year, a fee to the department of two dollars (\$2) per ton or portion thereof for all hazardous waste received from outside the state. This fee shall be based on the hazardous waste received for the twelve- (12-) month period ending June 30 of the previous year. This fee shall not be paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri. Failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee.

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

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

\$2 x 250 tons = \$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.

\$2 x 411 tons = \$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.

\$2 x 52,150 tons = \$104,300 fee

AUTHORITY: sections 260.370, 260.390, 260.391, and 260.395, RSMo Supp. [2008] 2013, sections 260.380[,] and 260.475, RSMo Supp. 2014, and section[s] 260.437, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed June 15, 2015.

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions approximately twenty-five thousand eight hundred seventeen dollars (\$25,817) annually. The fiscal note for this proposed amendment includes the information relied upon to develop the estimated cost of compliance.

PRIVATE COST: This proposed amendment is estimated to cost private entities approximately four hundred eighty-eight thousand forty-seven dollars (\$488,047) in the aggregate. As detailed in the fiscal note, the department assumes that these are annual costs. 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 August 20, 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 August 27, 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 August 27, 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

PUBLIC ENTITY COST

I. RULE NUMBER

Rule Number and Name	<i>10 CSR 25-12.010 Hazardous Waste Fees and Taxes</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:
28	<i>Conditionally Exempt Small Quantity Generators paying the generator registration and renewal fee</i>	<i>\$1400</i>
148	<i>Small Quantity Generators paying the generator registration and renewal fee</i>	<i>\$7400</i>
22	<i>Large Quantity Generators paying the generator registration and renewal fee</i>	<i>\$8800</i>
109	<i>Missouri hazardous waste generators paying the in-state waste fee</i>	<i>\$8217</i>
<i>Total Estimated Cost to Public Entities</i>		<i>\$25,817</i>

III. Worksheet

The purpose of this proposed rulemaking is to amend the hazardous waste fee rule to reflect the following increased fees agreed to by the hazardous waste fee stakeholder workgroup:

- Hazardous waste generator registration and renewal fee - increased from \$100 for all generators to \$150 for conditionally-exempt and small quantity generators and \$500 for large quantity generators

- In-state fee for hazardous waste generated in Missouri – increased from \$5 per ton to \$6.10 per ton
- Minimum amount for in-state fee – increased from \$150 to \$200
- Maximum amount for in-state fee – increased from \$52,000 to \$57,000
- Land disposal fee for hazardous waste land disposed in Missouri – increased from \$25 per ton to \$29.50 per ton

Based on actual revenues from FY 14, the proposed increases to the generator registration fee, the in-state tonnage fee, and the land disposal fee are estimated to generate additional revenue in the amount of \$502,165 annually to the Hazardous Waste Fund. The additional revenue is broken down as follows:

- Generator registration fee: \$272,850
- In-State Tonnage fee: \$205,042
- Land Disposal Fee: \$24,273

- *Total Additional Revenue:* \$502,165

Generator Registration Fee Calculations

The total of \$272,850 for additional revenue from the changes to the generator registration and renewal fee is taken from information presented to the Hazardous Waste Fee Stakeholder Workgroup. Because the fiscal note requires these costs to be apportioned among private entities, some revisions to this estimate are necessary to account for the fact that some of the generators are private entities and some are public entities.

The spreadsheet prepared by the department to come up with the estimated revenue amount of \$272,850 is based on the following number of generators in each category:

Conditionally Exempt Small Quantity Generators	529
Small Quantity Generators	1,530
Large Quantity Generators	454

Based on a query of the department's database of generators, for each category of generators the following percentages of generators are private entities (and the remainder would be public entities and will be counted in the public entity fiscal note for this rule):

- 94.8% of CESQGs are private entities
- 90.3% of SQGs are private entities.
- 95.2% of LQGs are private entities.

Therefore, the numbers of affected generators in each category that are private entities are as follows:

CESQGs	=	529 x 94.8%	=	501 CESQGs that are private entities
SQGs	=	1,530 x 90.3%	=	1,382 SQGs that are private entities
LQGs	=	454 x 95.2%	=	432 LQGs that are private entities

Based on these percentages of generators that are private entities in each category, the number of public entity generators in each category is assumed to be as follows:

CESQGs	529 total generators – 501 private entities =	28 public entity CESQGs
SQGs	1,530 total generators – 1,382 private entities =	148 public entity SQGs
LQGs	454 total generators – 432 private entities =	22 public entity LQGs

Additional cost to comply with generator registration and renewal fee for public entity CESQGs:

28 x \$50 (increase in generator registration and renewal fee for CESQGs) = \$1,400

Additional cost to comply with generator registration and renewal fee for public entity SQGs:

148 x \$50 (increase in generator registration and renewal fee for SQGs) = \$7,400

Additional cost to comply with generator registration and renewal fee for public entity LQGs:

22 x \$400 (increase in generator registration and renewal fee for LQGs) = \$8,800

IV. Assumptions

1. The department assumes that the estimated amount of additional revenue from the generator registration and renewal fee for each category of generators is a reasonable estimate. For the generator registration and renewal fee estimates, the department queried the database to determine the current number of registered generators. Because generators are registering and inactivating their registrations on a daily basis, generator numbers can vary from day to day and from week to week. Because current numbers were used to provide the estimates in this fiscal note, the number of generators in each category and the associated amount of additional revenue expected to be generated from the revised registration and renewal fees on those generators is slightly different from the projections the department used during the Hazardous Waste Fee Stakeholder Workgroup process. The numbers are also slightly different from those used in the workgroup process because to prepare the estimates for the workgroup the department used actual revenues collected from the registration and renewal fee for FY 14. Actual revenues may be slightly different from projected revenues because they do not include fees that are due but are not collected, and also include some revenues that were due in previous years.

2. For the in-state waste fee and land disposal fee, the amount of the fee depends on the amount of the waste generated or disposed of. For purposes of this fiscal note, the department used the same amounts of waste that were used for the estimates presented to the hazardous waste fee stakeholder workgroup
3. For the in-state fee, the department did a query of the generator database to try to determine which generators paying the fee were private entities and which were public entities. Based on that query, the department assumes that the estimated number of private entities in this fiscal note is accurate but there is no guarantee that some of the generators accounted for in this fiscal note are not public entities, and vice versa.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name	<i>10 CSR 25-12.010 Hazardous Waste Fees and Taxes</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>501</i>	<i>Conditionally Exempt Small Quantity Generators paying the generator registration and renewal fee</i>	<i>\$25,050</i>
<i>1,382</i>	<i>Small Quantity Generators paying the generator registration and renewal fee</i>	<i>\$69,100</i>
<i>432</i>	<i>Large Quantity Generators paying the generator registration and renewal fee</i>	<i>\$172,800</i>
<i>1400</i>	<i>Missouri hazardous waste generators paying the in-state waste fee</i>	<i>\$196,824</i>
<i>25</i>	<i>Missouri generators paying the land disposal fee</i>	<i>\$24,273</i>
<i>Total Estimated Cost to Private Entities</i>		<i>\$488,047</i>

III. Worksheet

The purpose of this proposed rulemaking is to amend the hazardous waste fee rule to reflect the following increased fees agreed to by the hazardous waste fee stakeholder workgroup:

- Hazardous waste generator registration and renewal fee - increased from \$100 for all generators to \$150 for conditionally-exempt and small quantity generators and \$500 for large quantity generators
- In-state fee for hazardous waste generated in Missouri – increased from \$5 per ton to \$6.10 per ton
- Minimum amount for in-state fee – increased from \$150 to \$200
- Maximum amount for in-state fee – increased from \$52,000 to \$57,000
- Land disposal fee for hazardous waste land disposed in Missouri – increased from \$25 per ton to \$29.50 per ton

Generator Registration Fee Calculations

Based on actual revenues from FY 14, the proposed increases to the generator registration fee, the in-state tonnage fee, and the land disposal fee are estimated to generate additional revenue in the amount of \$502,165 annually to the Hazardous Waste Fund. The additional revenue is broken down as follows:

- Generator registration fee: \$272,850
- In-State Tonnage fee: \$205,042
- Land Disposal Fee: \$24,273

- *Total Additional Revenue:* \$502,165

The total of \$272,850 for additional revenue from the changes to the generator registration and renewal fee is taken from information presented to the Hazardous Waste Fee Stakeholder Workgroup. Because the fiscal note requires these costs to be apportioned among private entities, some revisions to this estimate are necessary to account for the fact that some of the generators are private entities and some are public entities.

The spreadsheet prepared by the department to come up with the estimated revenue amount of \$272,850 is based on the following number of generators in each category:

Conditionally Exempt Small Quantity Generators	529
Small Quantity Generators	1,530
Large Quantity Generators	454

Based on a query of the department's database of generators, for each category of generators the following percentages of generators are private entities (and the remainder would be public entities and will be counted in the public entity fiscal note for this rule):

- 94.8% of CESQGs are private entities
- 90.3% of SQGs are private entities.
- 95.2% of LQGs are private entities.

Therefore, the numbers of affected generators in each category that are private entities are as follows:

CESQGs	=	529 x 94.8%	=	501 CESQGs that are private entities
SQGs	=	1,530 x 90.3%	=	1,382 SQGs that are private entities
LQGs	=	454 x 95.2%	=	432 LQGs that are private entities

Additional cost to comply with generator registration and renewal fee for CESQGs = 501 x \$50
(increase in generator registration and renewal fee for CESQGs) = \$25,050

Additional cost to comply with generator registration and renewal fee for SQGs = 1,382 x \$50
(increase in generator registration and renewal fee for SQGs) = \$69,100

Additional cost to comply with generator registration and renewal fee for LQGs = 432 x \$400
(increase in generator registration and renewal fee for LQGs) = \$172,800

IV. Assumptions

1. The department assumes that the estimated amount of additional revenue from the generator registration and renewal fee for each category of generators is a reasonable estimate. For the generator registration and renewal fee estimates, the department queried the database to determine the current number of registered generators. Because generators are registering and inactivating their registrations on a daily basis, generator numbers can vary from day to day and from week to week. Because current numbers were used to provide the estimates in this fiscal note, the number of generators in each category and the associated amount of additional revenue expected to be generated from the revised registration and renewal fees on those generators is slightly different from the projections the department used during the Hazardous Waste Fee Stakeholder Workgroup process. The numbers are also slightly different from those used in the workgroup process because to prepare the estimates for the workgroup the department used actual revenues collected from the registration and renewal fee for FY 14. Actual revenues may be slightly different from projected revenues because they do not include fees that are due but are not collected, and also include some revenues that were due in previous years.
2. For the in-state waste fee and land disposal fee, the amount of the fee depends on the amount of the waste generated or disposed of. For purposes of this fiscal note, the department used the same amounts of waste that were used for the estimates presented to the hazardous waste fee stakeholder workgroup.
3. For the in-state fee, the department did a query of the generator database to try to determine which generators paying the fee were private entities and which were public entities. Based on that query, the department assumes that the estimated number of private entities in this fiscal note is accurate but there is no guarantee that some of the generators accounted for in this fiscal note are not public entities, and vice versa.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 1—OFFICE OF ADMINISTRATION
Division 50—Missouri Ethics Commission
Chapter 3—Late Fee**

ORDER OF RULEMAKING

By the authority vested in the Missouri Ethics Commission under section 105.955.14(7), RSMo Supp. 2013, the commission amends a rule as follows:

1 CSR 50-3.010 Late Fee is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 2015 (40 MoReg 388-389). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 200—Office of College and Career Readiness**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.514 and 161.092, RSMo Supp. 2014, the State Board of

Education withdraws a proposed amendment as follows:

5 CSR 20-200.260 Academic Standards is withdrawn.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2015 (40 MoReg 225-226). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: The State Board of Education received ten (10) comments on the proposed amendment. All comments were against the proposed change, but for different reasons. Eight (8) of the responses requested different wording, and two (2) responses requested no change at all. In addition, a 9-12 social studies work group legislated by House Bill 1490 is currently working on expectations to be completed by October 1, 2015.

RESPONSE: As a result, the State Board of Education is withdrawing this rulemaking.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 600—Office of Early and Extended Learning**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 161.092 and 163.018, RSMo Supp. 2014, the board hereby amends a rule as follows:

5 CSR 20-600.120 Instruction for Prekindergarten is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 2, 2015 (40 MoReg 227). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 700—Office of Data System Management**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 161.092 and 161.096, RSMo Supp. 2014, the board hereby adopts a rule as follows:

**5 CSR 20-700.100 Statewide Longitudinal Data System
is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 2, 2015 (40 MoReg 227). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Missouri Hazardous Waste Management Commission Meeting

August 20, 2015

Agenda Item # 4

Adoption of Orders of Rulemaking – “No Stricter Than”

Information:

On June 15, 2015, the program filed a rulemaking package to amend fourteen rules in Title 10, Division 25 of the Code of State Regulations. The amendments would implement the requirements of Section 260.373 RSMo, the “no stricter than” statute, and also adopt federal rules promulgated between July 1, 2010 and July 1, 2013, plus two additional federal rules, the solvent wipes rule and the electronic manifest rule.

The rules were published in the June 15, 2015, edition of the Missouri Register. The Commission conducted a public hearing on June 18, 2015, and accepted written comments through June 25, 2015.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The Department received written comments on the proposed amendments from Mr. Perry; Mr. Shanks; Greg Carrell, Acting State Fire Marshal; Mr. Evan Bryant; Mr. Mark Reppond from Safety Kleen; Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association; and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

All comments relating to this rule are described in the Orders of Rulemaking for the individual rules on which the comments were received, as well as any change made to the text of the proposed rule in response to the testimony or comment.

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
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 and General Procedural Requirements
10 C SR 25-9.020	Hazardous Waste Resource Recovery Processes
10 CSR 25-11.279	Recycled Used Oil Management Standards
10 CSR 25-13.010	Polychlorinated Biphenyls
10 CSR 25-16.273	Standards for Universal Waste Management

Recommended Action:

Commission to approve fourteen Orders of Rulemaking to adopt the amendments published in the July 15, 2015, Missouri Register.

Suggested Motion Language:

“I move that the Commission adopt/not adopt/or adopt with modifications, the Orders of Rulemaking for the fourteen amendments proposed in the July 15, 2015 Missouri Register and that the Department proceed to file the Orders with the Joint Committee on Administrative Rules and the Secretary of State”

Presented by:

Mr. Tim Eiken – Rule Coordinator, HWP

Missouri Hazardous Waste Management Commission

Response to Comments and
Adoption of Orders of Rulemaking
August 20, 2015

Background - Why the change?

- Implement “No Stricter Than” statute by eliminating requirements in Chapters 3, 4, 5, and 7 that are stricter than federal requirements found in 40 CFR parts 260, 261, 262, 264, 265, 266, 268, and 270
- Make changes to other Chapters that are consistent with changes made as a result of “No Stricter Than”
- 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 will update to the July 1, 2013, edition
 - Total of six federal rules to be adopted

Orders of Rulemaking

- One Order of Rulemaking for each proposed amendment
- Each Order of Rulemaking directs final rule to be published, including any changes made in response to comments
- Each Order includes a summary of comments received on each rule and includes any rule text that was changed from the text of the proposed amendment published on May 15, 2015

Summary of comments received

- Testimony on proposed rules from REGFORM and Boeing
- Written comments – 2 emails and 5 letters
- Commenters include:
 - Mark Reppond, Safety Kleen
 - Evan Bryant, private citizen
 - Kevin Perry, REGFORM
 - David Shanks, Boeing
 - Greg Carrell, Acting State Fire Marshal
 - Jackie King, Secondary Materials and Recycled Textiles Assoc.
 - Jessica Franken, Association of the Nonwoven Fabrics Industry

Summary of comments cont.

- Number of commenters supporting “no stricter than” changes and adoption of federal rules – 2
- Number of commenters on hazardous waste container labeling – 2
- Number of commenters on hazardous waste tank labeling – 2
- Number of comments on fiscal note for hazardous waste tank labeling - 1
- Number of commenters on satellite accumulation – 3
- Number of commenters on solvent wipes rule – 2
- Number of commenters on used oil transporter shipment records – 1

Summary of response to comments

- Three changes proposed
- One in response to comments on use of Missouri Used Oil Shipment Record
 - 11.279(2)(E)3.A.
- Revised Fiscal Note prepared for 10 CSR 25-5.262
- One change made in response to correct a typo in the text of the proposed rule
 - 5.262(2)(C)3.D.

Used oil transporter shipment records

- **Comments**
 - Missouri form is duplicative and not accepted in other states
 - Transporters have to fill out both forms for shipments into or out of the state
- **Response**
 - Missouri form includes a certification statement and recording of both acceptance and delivery information on that single form - neither are required by federal regulation.
 - Change was made to make use of Missouri form optional

Fiscal note for tank labeling

- **Comments**
 - Narrative portion of fiscal note infers that NFPA standard requires that labels be affixed to the tank itself
 - Standard does not require that labels be affixed to the tank and narrative should be changed to avoid any confusion
- **Response**
 - Appropriate changes were made to narrative portion of fiscal note to clarify that labels don't have to be placed on the tank and a revised fiscal note is included with the Order of Rulemaking

Labeling of hazardous waste containers

- Comments
 - Missouri regulations not needed. Same information on container contents can be gathered through existing requirement for coordination with local emergency responders
 - Acting State Fire Marshal requested rule be adopted as proposed
- Response
 - Proposed language was developed as a compromise through a stakeholder process
 - No change recommended

Labeling requirements for hazardous waste tanks

- Comments
 - Missouri has never had a tank labeling regulation. Completely new provision that is not needed
 - Creates additional burden, additional costs and discrepancy between state and federal requirements
 - Acting State Fire Marshal requested rule be adopted as proposed
- Response
 - Compromise language developed through a stakeholder process
 - No change recommended

Satellite accumulation requirements

- Comments
 - Allow for both Missouri option and federal option at the same facility
 - Notification requirement not necessary
 - Eliminate Missouri option and require all generators to follow federal rule

Satellite accumulation cont.

- Response
 - Notification necessary to eliminate confusion about which system is in use and which standard to apply – visual observation not sufficient
 - Missouri option and federal option are incompatible and based on different assumptions, either less time to store higher amount of waste or more time to store smaller amounts
 - Since generators can use multiple satellite areas, with different operators and labeling, would be difficult to determine compliance
 - As with tank and container labeling, proposed language is a compromise that provides additional flexibility and provides department with necessary information to assist in inspections and compliance determinations
 - No change recommended

Solvent wipes rule

- Comments
 - Support adoption of rule as proposed
 - Conditional exclusion for these materials has been in development for thirty years
 - Benefits include increased flexibility and simplicity, uniform national standard, reduced costs, and increased compliance
 - Standards are appropriate for risk
- Response
 - No change recommended

Recommendation

- Adopt 14 Orders of Rulemaking, including changes recommended in response to comments

Rulemaking Schedule

- August 20, 2015- Final adoption of rules by HWMC
- August 21, 2015 – Orders of Rulemaking filed with JCAR
- September 21, 2015 - Orders of Rulemaking filed with Secretary of State
- November 2, 2015 - Orders of Rulemaking published in *Missouri Register*
- November 30, 2015- Revised rules published in Code of State Regulations
- December 30, 2015 - Rulemaking effective

QUESTIONS ?



Hazardous Waste Program Director
P.O. Box 176
Jefferson City, MO 65102-0176



RE: Boeing Comments on Hazardous Waste and Related Rule Revisions published in May 15, 2015 Missouri Register

Dear Mr. Lamb and Commissioners:

I am providing written comments to clarify and reinforce my oral testimony at the June 18, 2015 public hearing. These are provided below.

1. Boeing appreciates the closer alignment to federal rules that are proposed. Boeing and many other Missouri waste generators have manufacturing operations in multiple states. Environmental compliance staff and shop personnel who physically generate hazardous waste commonly move from one Boeing facility to another located in a different state. To the extent that state rules are consistent with federal rules, and are updated regularly to incorporate federal rule changes, it greatly eases the burden of retraining persons whose waste management practices were well ingrained at a prior location, and reduces the risk of noncompliance due to state rule differences.
2. The revised manifest exception reporting proposal for hazardous waste at page 635 and for PCBs at page 667 of the Missouri Register is a significant improvement over earlier Missouri language, which required a written report to DNR, even in those cases where the completed manifest was received after the 35th day of initial shipment, but was in hand before the 45th day. Such reports served no purpose, since the waste shipment was already determined not to be missing by the time the notification letter to DNR was written by the generator. The federal rule proposed for adoption requires the generator to initiate an inquiry if the manifest is not received within 35 days, but triggers written notification to the agency only if the completed manifest cannot be located within the next 10 days following, indicating the possibility of a more serious situation that prompts agency involvement.
3. As proposed, the two satellite area accumulation options at page 634 of the Missouri Register better accommodate the reality of different waste generator satellite areas. One option is based on the EPA-approved existing Missouri rule that sets a one year accumulation time limit. The other option is based on EPA guidance documents that set an aggregate volume limit on multiple wastestreams. At Boeing, some areas, like paint booth mix rooms, generate multiple wastestreams fairly quickly (D001 excess paint poured from individual paint guns, F-listed spent paint gun cleaning solvents, and wipes contaminated with paint or cleaning solvents). The former Missouri approach was

beneficial for these areas. An accumulation start date was required on each drum, and a 1 year time limit was imposed, but it allowed us to fill a 55 gallon drum of each wastestream, rather than removing partial containers when the aggregate of all 3 wastestreams reached 55 gallons. On the other hand, the proposed option based on federal guidance works well for the hundreds of 5 gallon step cans on the open shop floor that receive only solvent wipes and sealant tubes. Under the present Missouri rule, we must maintain accumulation start dates on these numerous step cans, even though they are emptied several times a week. Under the federal guidance option, this step-can dating exercise would no longer be necessary.

Unfortunately, the rule as proposed would require all generators who wish to continue following the existing Missouri accumulation option to notify DNR of this fact. We believe that such notification is unnecessary, since an inspector can readily determine which option is being followed, by looking for an accumulation start date on the container. If there is no start date, the generator is deemed to be opting for the federal guidance option, and is in violation if the aggregate of all wastestreams in the satellite area exceed 55 gallons. Likewise, if there is an accumulation start date, and it is more than 1 year old, the generator is in violation of the longstanding Missouri option.

Another unfortunate element of the proposed rule states that a generator must follow either the Missouri or the federal option throughout the entire generator I.D. facility. Many Boeing generator I.D. locations have both painting shops that quickly accumulate three different waste streams and open shop floor with 5 gallon step cans of one wastestream, often within the same building. While we disagree that a notification to DNR is needed regarding satellite area options, if the Commission feels that the notification serves some purpose, the notification should be modified to provide for the possibility that the generator can describe areas of the plant (i.e. open shop floor, paint booths and mix rooms, laboratories, warehouse, clean rooms, printing presses, etc.) where the generator intends to use one or the other compliance option. While these descriptions will vary by industry, an on-site inspector should be able to determine what broad category he or she is observing by simple observation.

Thank you for consideration of these comments. I can be reached at david.l.shanks@boeing.com or by cell phone at (314) 703-6132.

Sincerely,



David Shanks
Environmental Policy Analyst, Boeing Enterprise EHS

JEREMIAH W. (JAY) NIXON
Governor

LANE J. ROBERTS
Director

GREG CARRELL
Acting State Fire Marshal



DEPARTMENT OF PUBLIC SAFETY
DIVISION OF FIRE SAFETY

205 Jefferson Street, Suite 1315
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Website: www.dfs.dps.mo.gov

June 23, 2015

Hazardous Waste Management Commission
ATTN: David Lamb, Director
Hazardous Waste Program
PO Box 176
Jefferson City, MO 65102

RE: Proposed Rules

Director Lamb,

Well over two years ago, my predecessor Randy Cole and I were involved in preliminary discussions concerning the marking of hazardous waste and storage tanks.

Through meetings with stakeholders and first responders from fire service and haz-mat teams, a compromise was struck which lessened the impact on the business owners while still providing for the safety of first-in responders.

The rules promulgated concerning the marking of hazardous waste and storage tanks reflect that compromise.

I would ask you relay to the Commission my desire they continue to stand firm on the promulgated rules as submitted in order to provide for the continued safety of our fire service, law enforcement, emergency medical and haz-mat responders.

Responders, who may be called into an unknown environment to assist others during an emergency and who rely on clearly labeled hazardous materials in order to remain safe and maintain the safety of others while performing their duties.

Sincerely,

Greg Carrell
Acting State Fire Marshal



June 24, 2015

VIA EMAIL

Hazardous Waste Program
PO Box 176
Jefferson City, MO 65102-0176
Attn: Tim Eiken
tim.eiken@dnr.mo.gov

Dear Mr. Eiken:

I am writing on behalf of INDA, the Association of the Nonwoven Fabrics Industry to express support for Missouri Department of Natural Resource's plans to adopt by reference the U.S. Environmental Protection Agency (EPA) "Conditional Exclusions from Solid and Hazardous Waste for Solvent-Contaminated Wipes" [78 Fed. Reg. 46448 (July 31, 2013)], including provisions that provide a conditional exclusion from the definition of hazardous waste for non-laundered wipes.

As you are likely aware, this rulemaking was finalized by the EPA after more than 28 years of consideration, rigorous scientific analysis and input from a broad range of impacted stakeholders including INDA. Its purpose is to provide a consistent regulatory framework that is appropriate to the level of risk posed by solvent-contaminated non-laundered wipes and laundered shop towels in a way that maintains protection of human health and the environment, while reducing overall compliance costs for industry, many of which are small businesses.

As we will expand upon below, the conditional exclusion for non-laundered wipes would bring to successful culmination a nearly three decade effort to establish an appropriate regulatory regime for industrial wipes. It would also achieve myriad benefits including: increasing flexibility/simplicity for the vast number of domestic small businesses that use industrial wipes on a daily basis by creating a uniform, national regulatory regime; reducing unnecessary regulatory burdens and confusion while being protective of human health and the environment; enhancing compliance of the rules; and creating new economic and job opportunities for U.S. businesses.

Mailing Address: PO Box 1288, Cary, NC 27512-1288 Website: www.inda.org
Physical Address: Suite 115, 1100 Crescent Green, Cary, NC 27511 Phone: (919) 233-1210 Fax: (919) 233-1282

Background

INDA is the internationally recognized trade association of the nonwoven fabrics industry, a \$7 billion dollar business in the United States with another \$30 billion overseas. Nonwovens are ubiquitous and are utilized in scores of applications serving a broad range of sectors including: various consumer and industrial wipes, baby diapers, feminine care products, apparel, automotive/transportation, consumer products, electronics, filtration, furnishings, construction, hygiene, packaging and medical/healthcare.

INDA represents the entire value-chain of this dynamic industry. Its members include manufacturers of nonwoven roll goods, suppliers of raw materials and additives, machinery and equipment manufacturers, those who convert nonwovens into finished products, as well as academic institutions, consultants and other industry groups. Many INDA member companies are global entities including numerous *Fortune 100* companies such as Kimberly-Clark and Procter & Gamble, as well as a number of smaller and medium-sized U.S. manufacturers. You may learn more about INDA, its members and the industry by visiting: www.inda.org.

As mentioned above, INDA has an interest in seeing this rulemaking implemented in its entirety because our members make non-laundered wipes used in thousands of industrial facilities across the country for cleaning and degreasing equipment. Consequently, INDA has long had a keen interest in ensuring that environmental regulatory requirements for industrial wiping products are appropriate to the realities of their use and the risks they can pose, and thus has been very actively involved in the rulemaking since its inception.

Historically, under Subtitle C of the Resource Conservation and Recovery Act (RCRA), non-laundered wipers that contained even one drop of “listed” solvent were regarded as hazardous waste when discarded. Although these rules were intended to eliminate potential loopholes, they were so stringent that they had the unintended consequence of subjecting numerous types of generally non-hazardous materials, including non-laundered industrial wiping products, to overly burdensome and unnecessary waste management requirements. At the same time, wipes that are laundered (a.k.a. “shop towels”) have generally not been subject to federal hazardous waste regulations due to an EPA decision to defer determinations and interpretations regarding regulation of solvent-contaminated industrial wipes to states or EPA regions.¹ Numerous states have provided laundered shop towels a conditional exclusion from the definition of hazardous or solid waste, but these conditions vary considerably and are typically provided in informal, hard-to-find, and unenforceable “regulatory interpretations,” leaving a patchwork of different, confusing and often conflicting requirements throughout the country.

In 1985, manufacturers of non-laundered wipes formally petitioned EPA to conditionally exclude wipes from the RCRA definition of hazardous waste, arguing that these materials are over-regulated because the amount of solvent in the wipes is typically insignificant and because they

¹ Policy Memorandum from Mike Shapiro, Director, Office of Solid Waste, to EPA Waste Management Division Directors, February 14, 1994.

do not pose a meaningful threat to human health and the environment. In 1987, the Agency received a similar petition to exclude laundered wipes from the RCRA definition of solid waste.

Agreeing that these products are over-regulated and finding that managing disposable wipes as solid rather than hazardous waste under RCRA was protective of human health and the environment, EPA included a conditional exemption for them in its 1992 Hazardous Waste Identification Rule (HWIR) proposal, again in its 1993 redefinition of solid waste proposal, and still again in the Reengineering RCRA for Recycling report issued in 1994.

Unfortunately, none of these efforts resulted in a final rulemaking that resolved the issue of a conditional exclusion for wipes/rags. EPA spent the next nine years evaluating industrial wipes management options, conducting field visits, collecting data on wiper use and disposal practices, consulting and receiving vast amount of input from stakeholders, and vetting various options. In 2003, nearly 20 years after receipt of the initial petition, the EPA finally proposed a rule to establish a conditional exclusion from the RCRA definition of hazardous waste for non-laundered wipes, and also a conditional exclusion from the RCRA definition of solid waste for laundered shop towels.

Scores of stakeholders, including INDA, formally weighed-in on the 2003 proposal. The EPA ultimately decided to redo the risk analysis underlying the 2003 proposal to ensure that it adequately considered comments about possible shortcomings in its initial risk assessment and to account better for the impact on the type of landfill that would be receiving wipes/rags and laundry sludge. After spending the next several years working on the revised assessment, the EPA published in October 2009 a Notice of Data Availability (“NODA”) describing the details of its revised risk analysis. The updated assessment included additional data and information, a new model to evaluate the behavior of solvents in a landfill, revised fate and transport modeling, and an improved approach from the 2003 risk screening analysis to compare the estimates of the solvent quantities disposed to the risk-based solvent loading levels. This includes a methodology to estimate allowable amounts of spent solvents that can be disposed of safely based on modeling scenarios defined in terms of the solvent, landfill type (lined or unlined), exposure route (ingestion, inhalation, dermal absorption), contact media (groundwater, ambient air), and receptor (child or adult). *See generally* 78 Fed. Reg. 46451-54. It was subjected to public comment and external peer review according to established EPA and Office of Management and Budget policies.² Based on this extremely rigorous analysis, the EPA ultimately concluded that both solvent-contaminated wipes and rags (except for those tainted with trichloroethylene) and laundry sludge can be disposed of in lined, municipal solid waste landfills while still being protective of public health and the environment.

²You can read a summary of the extensive risk analysis process in the preamble to final rule. Documents supporting the comprehensive risk analysis include “Landfill Loadings Calculations for Disposed Solvent-Contaminated Wipes and Laundry Sludge Managed in Municipal Landfills,” October, 2008; “Risk-Based Mass Loading Limits for Solvents in Disposed Wipes and Laundry Sludges Managed in Municipal Landfills,” October, 2009 and “F001–F005 Solvent-Contaminated Wipes and Laundry Sludge: Comparison of Landfill Loading Calculations and Risk-Based Mass Loading Limits,” August, 2009, can be found in the docket associated with this rulemaking [RCRA Docket Nos. 2003-0004].

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Finally, in July 2013, after nearly 30 years under development, the EPA published its final solvent contaminated wipes rule. As noted, the regulation creates a conditional exclusion from the definition of hazardous waste for non-laundered wipes and a conditional exclusion from the definition of solid waste for laundered shop towels. As previously noted, non-laundered wipes that contain trichloroethylene (TCE) are not eligible for exclusion.

Requirements for achieving such exclusions are nearly the same for both laundered and non-laundered wiping products. Under the final rule, in order to be eligible for exemption, generators of both wipes and shop towels must:

- Ensure that wipes and shop towels are accumulated, stored, and transported in non-leaking, closed containers capable of containing free liquids and labeled “Excluded Solvent-Contaminated Wipes.”
- Not accumulate wipes/shop towels for longer than 180 days.
- Ensure that when wipes are transported off-site, they contain “no free liquids” as determined by the Paint Filter Liquids Test (EPA Methods 9095B).
- Maintain recordkeeping. Generator facilities will have to keep documentation onsite that includes: 1) the name and address of the landfill/combustor or laundry/dry cleaner receiving wipes/towels when sent off site; 2) records showing that the 180-day accumulation time limit is being met; 3) a description of the process the generator is using to meet the “no free liquids” condition.

Assuming these standards are met, non-laundered wipes will be able to be disposed in either a lined, non-hazardous waste landfill or in a hazardous waste landfill; a municipal waste combustor regulated under New Source Performance standards (section 129) under the Clean Air Act or a hazardous waste combustor or hazardous waste boiler or industrial furnace. Meanwhile, laundered shop towels may be sent to either an industrial laundry or dry cleaner that is subject to effluent discharge requirements under the Clean Water Act and has a National Pollutant Discharge Elimination System (NPDES) permit or is subject to indirect discharge limitations imposed by a publicly-owned treatment works (POTW).

Now that the rule has been finalized, states are left to decide whether to implement the final product. INDA argues that doing so would achieve numerous laudable objectives as outlined below.

1) Increase Regulatory Flexibility/Simplicity for Domestic Small Businesses and Enhance Regulatory Compliance by Creating a Uniform, National Regulatory Regime

As the EPA itself noted, until the rule was finalized, its failure to clearly establish the regulatory status of industrial wipes under RCRA led to the development of diverse and confusing regulatory schemes for these materials across various states, a situation exacerbated by the fact that very few states had set forth their positions regarding laundered industrial wipes in transparent, promulgated regulations. *See generally* 68 Fed. Reg. 65591-92. This made it difficult for the hundreds of thousands of U.S. businesses that use these wipes in their day-to-day operations, the vast majority of which are small businesses, to comply with regulatory

Mailing Address: PO Box 1288, Cary, NC 27512-1288 Website: www.inda.org
Physical Address: Suite 115, 1100 Crescent Green, Cary, NC 27511 Phone: (919) 233-1210 Fax: (919) 233-1282

requirements relating to wipes. As the agency notes in the preamble to its 2003 proposed rule, “generators of solvent-contaminated wipes have asked EPA over the years to clarify our position on both disposable and reusable wipes.” 68 Fed. Reg. 65591. As a representative from the printing industry noted during a March 9, 2004 public meeting on this matter, “Over the years the printing industry has continued to identify the ambiguity of the state policies as they apply to both disposable and reusable solvent contaminated wipes as a major concern... It has long been our intention to encourage the U.S. EPA to establish a federal regulation that levels the playing field and provides an element of consistency to this issue.”³ Indeed, a review of the administrative record for this rulemaking reveals numerous submissions from the printing, electronics, automotive and other industries calling for the EPA to establish a clear, uniform national policy to bring consistency and enhance their ability to comply. These same groups cheered the EPA when it finally delivered a simple and straightforward rule that clearly lays out generator obligations to achieve their respective exclusions for both classes of products.

2) Prevent Unnecessary Over-Regulation, Increase User Options, and Create New Economic Opportunities

Over the years, impacted industries including INDA’s have submitted reams of scientific data demonstrating that wiping products are indeed over-regulated and can be handled, managed and disposed of safely without the onerous controls currently in place. EPA shared this position, as evidenced by numerous statements in the administrative record for the wipes rule in which it notes that these materials are excessively regulated, and the fact that EPA had released several proposals that attempted to conditionally exclude wiping products from onerous hazardous waste requirements.⁴

This well-established over-regulation of non-laundered wipes obviously creates costs that are unnecessary to achieve environmental objectives. One of these is limiting the wiper options available to those who use wipes. Generators in clean environments such as electronics, bio-pharmaceutical, medical device and other high tech manufacturing frequently prefer using non-laundered wipes and rags due to various attributes such as increased sterility, absorbency, texture and low lint particles. However, due to the additional costs of complying with the excessive hazardous waste management restrictions applicable to non-laundered wipes and rags, wipes users often feel compelled to use laundered shop towels in situations where non-laundered wipes are better suited to the task at hand. For example, in a February 26, 2010 submission to the EPA, the National Automotive Dealers Association, which represents some 17,000 automotive and truck dealers, the vast majority of which are small businesses, called upon the EPA to finalize revisions to the existing waste regulations, noting that “[d]ealerships and other small businesses want the ability to choose among wipe products,” and contended that making these regulatory revisions would create a more even playing field between disposable and reusable wipes.

³ March 9, 2004 Statement of Marci Kinter, Specialty Graphic Imaging Association International.

⁴ For example, a Technical Background document supporting the 2003 proposed rule states that “[c]urrent federal rules appear to over-regulate these materials, such as when very small amounts of hazardous solvent are applied to industrial wipes.”

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Moreover, this over-regulation hasn't merely impacted users of wipes; it has also unnecessarily burdened manufacturers and distributors of these products. Conservative industry estimates show that eliminating this needless over-regulation of disposable wipes and replacing it with smart, uniform, and straightforward national management and disposal requirements described in the final rule will open up a new market for these products, in the range of \$718 million annually. That's \$718 million in jobs creation, and \$718 million in U.S. economic growth that is lost each year due to unwarranted over-regulation.⁵

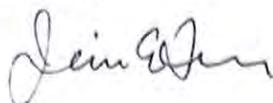
3) Bring to a Successful Conclusion a Nearly Three Decade EPA Effort

As noted in detail above, the EPA invested years of staff work and a lot of money studying this issue, conducting public meetings, engaging and responding to stakeholder input, gathering and evaluating data, conducting internal and external government reviews, and creating two risk analyses. Based on this extensive work, EPA managed to develop a well-balanced rule that achieves numerous laudable objectives detailed above. In recognition of its many benefits, 19 states have already implemented the rule in its entirety, while the vast majority of others including Missouri say they plan to do the same.⁶

INDA would strongly urge Missouri DNR to implement this rulemaking in its entirety as quickly as possible. As already noted, doing so will: 1) rectify unnecessary over-regulation in existing hazardous waste rules; 2) bring clarity and certainty to the covered community by creating a uniform, national regime; 3) and aid the vast number of small businesses across the nation who use these wipes on a daily basis in creating new economic and job opportunities, all while being protective of human health and the environment.

Should you have any questions or need further information, I can be reached directly at 703-521-0545 or via e-mail at jfranken@inda.org.

Sincerely,



Jessica Franken
Director of Government Affairs
INDA, Association of the Nonwoven Fabrics Industry

⁵ "INDA Impact" Report, 2014.

⁶ Based on direct contacts in 2014 and 2015 with state officials responsible for overseeing the rule's implementation.



The Association of Wiping Materials, Used Clothing and Fiber Industries

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telephone 443.640.1050 fax 443.640.1086
email smartinfo@kingmgmt.org web www.SMARTasn.org

June 24, 2015

Hazardous Waste Program
PO Box 176
Jefferson City, MO 65102-0176
Attn: Tim Eiken
tim.eiken@dnr.mo.gov

Dear Mr. Eiken:

I am writing on behalf of the Secondary Materials and Recycled Textiles Association (SMART) to express support for the Missouri Department of Natural Resource's plans to adopt by reference the U.S. Environmental Protection Agency (EPA) "Conditional Exclusions from Solid and Hazardous Waste for Solvent-Contaminated Wipes" [78 Fed. Reg. 46448 (July 31, 2013)], including provisions that provide a conditional exclusion from the definition of hazardous waste for non-laundered wipes.

As you are likely aware, this rulemaking was finalized by the EPA after more than 28 years of consideration, rigorous scientific analysis and input from a broad range of impacted stakeholders, including Secondary Materials and Recycled Textiles Association (SMART). Its purpose is to provide a consistent regulatory framework that is appropriate to the level of risk posed by solvent-contaminated non-laundered wipes and laundered shop towels in a way that maintains protection of human health and the environment, while reducing overall compliance costs for industry, many of which are small businesses.

As we will expand upon below, the conditional exclusion for non-laundered wipes and rags would bring to successful culmination a nearly three decade effort to establish an appropriate regulatory regime for industrial wipes. It would also achieve myriad benefits including: increasing flexibility/simplicity for the vast number of domestic small businesses that use industrial wipes on a daily basis by creating a uniform, national regulatory regime; reducing unnecessary regulatory burdens and confusion while being protective of human health and the environment; enhancing compliance of the rules; and creating new economic and job opportunities for U.S. businesses.

Background

Founded in 1932, SMART is a non-profit trade association that represents nearly 200 small and medium-sized companies involved in using, converting and recycling pre- and post-consumer textiles and other secondary materials.

The activities of this nearly \$1 billion industry, which is comprised of mostly small, family-owned operations, are very diverse. Some SMART members recover and process "pre-consumer" by-products from the textile and fiber industries to be used in new materials for automobiles, home furnishings, and a variety of other products. Other buy and sell "post-consumer" second hand textiles, purchasing excess textile donations collected from various charities and commercial sources (e.g. Salvation Army, Goodwill, hospitals, hotels, industrial laundries, etc.). Some of this recovered material becomes wiping and polishing cloths used in institutional and industrial settings some other is reprocessed into fibers for furniture stuffing, upholstery, insulation, building and a variety of other products. The items that can be reused as apparel are usually exported, typically to least developed and developing countries where demand for second hand clothing is especially high.

Through these business activities, for-profit textile recyclers create meaningful employment for some 15,000-20,000 people who drive their local economies and generate much-needed tax revenue across the United States. These companies also make vital contributions to state and national environmental goals through the recycling of nearly 4 billion pounds of used clothing and other textile waste each year that would have otherwise gone to a landfill. Yet despite the industry's contributions, recent data shows that this figure is a mere 15 % of the total and Americans still throw away some 21 billion pounds of used textiles annually. These realities have prompted officials in New York City, San Francisco, Connecticut, Massachusetts, Rhode Island and elsewhere to pursue textile recycling one way to achieve their broader waste reduction goals.

As mentioned above, SMART has an interest in seeing this rulemaking implemented in its entirety because our members recover textiles that are turned into non-laundered wiping cloths/rags used in thousands of industrial facilities across the country for cleaning and degreasing equipment. Consequently, SMART has long had a keen interest in ensuring that environmental regulatory requirements for industrial wiping products are appropriate to the realities of their use and the risks they can pose, and thus has been very actively involved in the rulemaking since its inception.

Historically, under Subtitle C of the Resource Conservation and Recovery Act (RCRA), non-laundered wipers that contained even one drop of "listed" solvent were regarded as hazardous waste when discarded. Although these rules were intended to eliminate potential loopholes, they were so stringent that they had the unintended consequence of subjecting numerous types of generally non-hazardous materials, including non-laundered industrial wiping products, to overly burdensome and unnecessary waste management requirements. At the same time, wipes that are laundered (a.k.a. "shop towels") have generally not been subject to federal hazardous waste regulations due to an EPA decision to defer determinations and interpretations regarding regulation of solvent-contaminated industrial wipes to states or EPA regions.¹ Numerous states have provided laundered shop towels a conditional exclusion from the definition of hazardous or solid waste, but these

¹ Policy Memorandum from Mike Shapiro, Director, Office of Solid Waste, to EPA Waste Management Division Directors, February 14, 1994.

conditions vary considerably and are typically provided in informal, hard-to-find, and unenforceable “regulatory interpretations,” leaving a patchwork of different, confusing and often conflicting requirements throughout the country.

In 1985, manufacturers of non-laundered wipes formally petitioned EPA to conditionally exclude wipes from the RCRA definition of hazardous waste, arguing that these materials are over-regulated because the amount of solvent in the wipes is typically insignificant and because they do not pose a meaningful threat to human health and the environment. In 1987, the Agency received a similar petition to exclude laundered wipes from the RCRA definition of solid waste.

Agreeing that these products are over-regulated and finding that managing disposable wipes as solid rather than hazardous waste under RCRA was protective of human health and the environment, EPA included a conditional exemption for them in its 1992 Hazardous Waste Identification Rule (HWIR) proposal, again in its 1993 redefinition of solid waste proposal, and still again in the Reengineering RCRA for Recycling report issued in 1994.

Unfortunately, none of these efforts resulted in a final rulemaking that resolved the issue of a conditional exclusion for wipes/rags. EPA spent the next nine years evaluating industrial wipes management options, conducting field visits, collecting data on wiper use and disposal practices, consulting and receiving vast amount of input from stakeholders, and vetting various options. In 2003, nearly 20 years after receipt of the initial petition, the EPA finally proposed a rule to establish a conditional exclusion from the RCRA definition of hazardous waste for non-laundered wipes, and also a conditional exclusion from the RCRA definition of solid waste for laundered shop towels. Scores of stakeholders, including SMART, formally weighed-in on the 2003 proposal. The EPA ultimately decided to redo the risk analysis underlying the 2003 proposal to ensure that it adequately considered comments about possible shortcomings in its initial risk assessment and to account better for the impact on the type of landfill that would be receiving wipes/rags and laundry sludge. After spending the next several years working on the revised assessment, the EPA published in October 2009 a Notice of Data Availability (“NODA”) describing the details of its revised risk analysis. The updated assessment included additional data and information, a new model to evaluate the behavior of solvents in a landfill, revised fate and transport modeling, and an improved approach from the 2003 risk screening analysis to compare the estimates of the solvent quantities disposed to the risk-based solvent loading levels. This includes a methodology to estimate allowable amounts of spent solvents that can be disposed of safely based on modeling scenarios defined in terms of the solvent, landfill type (lined or unlined), exposure route (ingestion, inhalation, dermal absorption), contact media (groundwater, ambient air), and receptor (child or adult). *See generally* 78 Fed. Reg. 46451-54. It was subjected to public comment and external peer review according to established EPA and Office of Management and Budget policies.² Based on this extremely rigorous analysis, the EPA ultimately concluded that both solvent-contaminated wipes and rags (except for those tainted with trichloroethylene) and laundry sludge can be disposed of in lined, municipal solid waste landfills while still being protective of public health and the environment.

²You can read a summary of the extensive risk analysis process in the preamble to final rule. Documents supporting the comprehensive risk analysis include “Landfill Loadings Calculations for Disposed Solvent-Contaminated Wipes and Laundry Sludge Managed in Municipal Landfills,” October, 2008; “Risk-Based Mass Loading Limits for Solvents in Disposed Wipes and Laundry Sludges Managed in Municipal Landfills,” October, 2009 and “F001–F005 Solvent-Contaminated Wipes and Laundry Sludge: Comparison of Landfill Loading Calculations and Risk-Based Mass Loading Limits,” August, 2009, can be found in the docket associated with this rulemaking [RCRA Docket Nos. 2003-0004].

Finally, in July 2013, after nearly 30 years under development, the EPA published its final solvent contaminated wipes rule. As noted, the regulation creates a conditional exclusion from the definition of hazardous waste for non-laundered wipes/rags and another one conditional exclusion from the definition of solid waste for laundered shop towels. As previously noted, non-laundered wipes and rags that contain trichloroethylene (TCE) are not eligible for exclusion.

Requirements for achieving such exclusions are nearly the same for both laundered and non-laundered wiping products. Under the final rule, in order to be eligible for exemption, generators of both wipes and shop towels must:

- Ensure that wipes and shop towels are accumulated, stored, and transported in non-leaking, closed containers capable of containing free liquids and labeled “Excluded Solvent-Contaminated Wipes.”
- Not accumulate wipes/shop towels for longer than 180 days.
- Ensure that when wipes are transported off-site, they contain “no free liquids” as determined by the Paint Filter Liquids Test (EPA Methods 9095B).
- Maintain recordkeeping. Generator facilities will have to keep documentation onsite that includes: 1) the name and address of the landfill/combustor or laundry/dry cleaner receiving wipes/towels when sent off site; 2) records showing that the 180-day accumulation time limit is being met; 3) a description of the process the generator is using to meet the “no free liquids” condition.

Assuming these standards are met, non-laundered wipes will be able to be disposed in either a lined, non-hazardous waste landfill or in a hazardous waste landfill; a municipal waste combustor regulated under New Source Performance standards (section 129) under the Clean Air Act or a hazardous waste combustor or hazardous waste boiler or industrial furnace. Meanwhile, laundered shop towels may be sent to either an industrial laundry or dry cleaner that is subject to effluent discharge requirements under the Clean Water Act and has a National Pollutant Discharge Elimination System (NPDES) permit or is subject to indirect discharge limitations imposed by a publicly-owned treatment works (POTW).

Now that the rule has been finalized, states are left to decide whether to implement the final product. SMART argues that doing so would achieve numerous laudable objectives as outlined below.

1) Increase Regulatory Flexibility/Simplicity for Domestic Small Businesses and Enhance Regulatory Compliance by Creating a Uniform, National Regulatory Regime

As the EPA itself noted, until the rule was finalized, its failure to clearly establish the regulatory status of industrial wipes under RCRA led to the development of diverse and confusing regulatory schemes for these materials across various states, a situation exacerbated by the fact that very few states had set forth their positions regarding laundered industrial wipes in transparent, promulgated regulations. *See generally* 68 Fed. Reg. 65591-92. This made it difficult for the hundreds of thousands of U.S. businesses that use these wipes in their day-to-day operations, the vast majority of which are small businesses, to comply with regulatory requirements relating to wipes. As the agency notes in the preamble to its 2003 proposed rule, “generators of solvent-contaminated wipes have asked EPA over the years to clarify our position on both disposable and reusable wipes.” 68

Fed. Reg. 65591. As a representative from the printing industry noted during a March 9, 2004 public meeting on this matter, "Over the years the printing industry has continued to identify the ambiguity of the state policies as they apply to both disposable and reusable solvent contaminated wipes as a major concern...It has long been our intention to encourage the U.S. EPA to establish a federal regulation that levels the playing field and provides an element of consistency to this issue."³ Indeed, a review of the administrative record for this rulemaking reveals numerous submissions from the printing, electronics, automotive and other industries calling for the EPA to establish a clear, uniform national policy to bring consistency and enhance their ability to comply. These same groups cheered the EPA when it finally delivered a simple and straightforward rule that clearly lays out generator obligations to achieve their respective exclusions for both classes of products.

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Moreover, this over-regulation hasn't merely impacted users of wipes; it has also unnecessarily burdened manufacturers and distributors of these products. Conservative industry estimates show that eliminating this needless over-regulation of disposable wipes and replacing it with smart, uniform, and straightforward national management and disposal requirements described in the final rule will open up a new market for these products, in the range of \$718 million annually. That's

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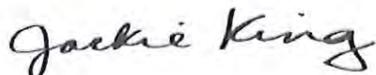
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SMART would strongly urge Missouri to implement this rulemaking in its entirety as quickly as possible. As already noted, doing so will: 1) rectify unnecessary over-regulation in existing hazardous waste rules; 2) bring clarity and certainty to the covered community by creating a uniform, national regime; 3) and aid the vast number of small businesses across the nation who use these wipes on a daily basis in creating new economic and job opportunities, all while being protective of human health and the environment.

Should you have any questions or need further information, I can be reached directly at 443-640-1050, ext. 105 or via e-mail at Jackie@kingmgmt.org or you may contact SMART's government affairs consultant Jessica Franken at 703-521-0545 or via email at jessica@thefrankengroup.com.

Sincerely,



Jackie King
Executive Director
Secondary Materials and Recycled Textiles Association

⁵ "INDA Impact" Report, 2014.

⁶ Based on direct contacts in 2014 and 2015 with state officials responsible for overseeing the rule's implementation.

Eiken, Tim

From: Evan Bryant <ebryant30@gmail.com>
Sent: Sunday, June 14, 2015 10:44 AM
To: Eiken, Tim
Cc: Eby, Nicole; Bryant, Evan
Subject: Public Comment

As a private citizen I have chosen to exercise my rights and publicly submit comments during this open comment period.

Per the proposed amendments to Title 10, Division 25, Chapter 5 on page 634 of the Missouri Register, I strongly disagree with the amendment to have a dual regulations allowance for Satellite Accumulation. In the past, just having regulations differing from the federal regulations was confusing to many especially businesses from out of state and generators with a limited working knowledge of the regulations.

Having two separate sets of regulations within Missouri's regulations will add to the confusion making comprehension and compliance more difficult for all but the largest generators.

A solution to clarify which set of satellite accumulation rules a generator will use has been included in these proposed rules. A requirement for generators to register as to which satellite accumulation rules they will use at their facility. This will give generators the ability to claim that they are not violating satellite accumulation rules just simply that they registered inappropriately and that it's only a "paperwork violations". This has the potential to make compliance with two separate systems for the same activity difficult for the regulated community and the regulators.

In aligning with the federal regulations, in the spirit of the "no stricter than" legislation, and to facilitate as easy a shift to new satellite accumulation regulations I would encourage the Hazardous Waste Commission to simply adopt the straight federal regulations as Missouri's only satellite accumulation regulation. This will make it simpler and easier on regulatory staff (both federal and state) as well as interstate businesses and the regulated community which would all then have the same regulations as the rest of the country.

Thank You.

Evan Bryant
Jefferson City, MO
sent from St. Louis, MO
Sunday June 14, 2015

Eiken, Tim

From: Reppond, Mark E <Mark.Reppond@safety-kleen.com>
Sent: Tuesday, May 26, 2015 3:13 PM
To: Eiken, Tim
Cc: Sorenson, Mori
Subject: Comment to Proposed Rule

To: Mr. Tim Eiken, MDNR, Hazardous Waste Program, Rules Coordinator:
Re: Comment to Proposed Rule
Vol. 40, No. 10, Missouri Register 2015-05-15 pp. 665-666
PUBLICATION DATE: 05/15/2015
ACTION DATE: 04/15/2015
COMMENT DEADLINE: 06/25/2015
PUBLICATION TYPE: Register

Dear Mr. Eiken,

Pursuant to the public notice to submit written comments prior to June 25, 2015, Safety-Kleen wishes to comment on the above-mentioned regulation. The follow comment applies only to the above-mentioned proposed rule:

In reviewing the proposed rule change, it was noted that the Dept. omitted a change discussed and agreed upon during the stake holder meetings. This change would have removed the Missouri-specific requirement under 10 CSR 25-11.279 requiring all used oil shipments to be recorded on a state form (the Missouri Transporter's Used Oil Shipment Record). This form is a duplication of effort in that there is an equivalent Federal Regulation. The Missouri Specific form is not recognized by states other than Missouri, therefore, when shipping used oil in or out of state, it is common for two separate shipping papers to be prepared for each shipment. This costs transporters not only for the form, but administrative time preparing two separate shipping papers for each shipment. The form is not needed in order to comply with other parts of the regulation (completion of the Transport's used oil annual report) as this information is readily available no matter the shipping paper utilized. Because the entire rule package proposed is in keeping with the "no stricter than" law, and discussion on this change occurred during the stakeholder process, the removal of this requirement should be included with the rule package being proposed. I have included the text of the regulation below:

A. The information described in 40 CFR 279.46(a)-(c), incorporated by reference in this rule, shall be recorded on form MO 780-1449(11-93), the Transporter's Used Oil Shipment Record, incorporated by reference in this rule and provided by the department;

Sincerely,

Mark Reppond Environmental Health & Safety Manager | Safety-Kleen | A Clean Harbors Company | Springfield, MO | mark.reppond@safety-kleen.com
417.866.6412 (o) | 417.860.7791 (c) | 417.869.4203 (f) | safety-kleen.com



Safety Starts with Me! Live it 3-6-5

REGFORM

REGULATORY ENVIRONMENTAL
GROUP FOR MISSOURI

June 23, 2015

Mr. Tim Eiken
Rules Coordinator
Hazardous Waste Program, and
Missouri Hazardous Waste Management Commission
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

Subject: Comments on Proposed Amendments to 10 CSR 25-3.260, 10 CSR 25-4.261, 10 CSR 25-5.262, 10 CSR 25-6.263, 10 CSR 25-7.264, 10 CSR 25-7.265, 10 CSR 25-7.266, 10 CSR 25-7.268, 10 CSR 25-7.270, 10 CSR 25-8.124, 10 CSR 25-3.260, 10 CSR 25-9.020, 10 CSR 25-11.279, and 10 CSR 25-13.010 published on pages 626-670 in the *Missouri Register* May 15, 2015

Dear Mr. Eiken & Commissioners:

Please find herein comments offered on the above-referenced Proposed Amendments to Missouri Hazardous Waste regulations, which were published in the May 15, 2015 edition of the *Missouri Register*.

These comments are offered by REGFORM on behalf of its member companies and educational institutions, which are subject to the regulations for which these amendments have been proposed.

Thank you for considering these comments. Please do not hesitate to contact me if you have any questions.

Support

REGFORM supports the Proposed Amendments and requests that the Hazardous Waste Management Commission (HWMC) vote to adopt them.

These proposed amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with Federal hazardous waste regulations, while continuing and enhancing protections to human health and the environment.

Importantly, the adoption of this proposed package of rule amendments will accomplish the following, each of which is a benefit to Missourians and Missouri hazardous waste generators, transporters, and/or treatment/storage/disposal (TSD) facilities:

1. **Reduced confusion.** Federal hazardous waste standards and requirements are widely understood by environmental professionals throughout Missouri and beyond our State's borders. Missouri regulations that clash with Federal hazardous waste regulations cause confusion and result in unintended non-compliance. Adoption of this proposed rule amendment package will eliminate significant confusion.
2. **Reduced risk of harm.** Where Missouri regulations differ from Federal hazardous waste, confusion between the two increases the likelihood of negative outcomes associated with hazardous waste management. When generators and others can avoid delay and act confidently, without second-guessing themselves on fine distinctions between Missouri and Federal regulations, operations improve and risk is diminished. This rule package, if adopted will reduce risk.
3. **More level playing field.** When Missouri hazardous waste regulations are stricter than Federal hazardous waste regulations, it puts Missouri businesses and educational institutions at a financial disadvantage in relation to entities in surrounding or nearby states whose hazardous waste regulations are essentially equivalent to Federal hazardous waste requirements. By adopting these rule amendments, we level the playing field on cost to comply, while continuing to protect human health and the environment. The change would also remove a stigma that Missouri has unique and burdensome regulations for businesses to comply with compared to its neighboring States.
4. **Missouri regulations consistent with recently promulgated Federal hazardous waste regulations.** If adopted, this rule package will put recent Federal rule updates into effect in Missouri. Once again, this puts Missouri in better harmony with the Federal standards and our neighboring states.

Notably, the Federal Solvent Wipes rule would also come into effect in Missouri with this adoption.¹ This gives generators more flexibility in handling wipes.

The updates also de-list saccharin and correct discrepancies in the academic lab standards, among other things. Importantly, adopting these Federal updates keeps Missouri on a regular

¹ 78 FR 46448 (July 31, 2013)

schedule of implementing Federal rules, which if not attended to regularly, can result in significant discrepancies over time.

5. **Busy work eliminated.** The Department is to be highly commended for bringing Health Profile and Frequent Violator Reporting requirements to the attention of legislators. Significant staffing resources were being siphoned away from other work, but producing no environmental benefit. Generators and TSDs were spending thousands of dollars and hundreds of hours producing reports that benefitted no one. With the adoption of this rule package, this make-work will no longer be required.
6. **Human health and environment protected.** Without deeper consideration, one might conclude that eliminating regulations in Missouri would result in fewer protections for human health and the environment. This is not the case. Other states are using regulatory approaches that are nearly identical to Federal hazardous waste regulations. These states are not experiencing problems. Real-world experience shows that the Federal hazardous waste regulations are protective.

These rules have been thoroughly vetted at the Federal level. They have been subject to extensive technical and policy review. They have been the subject of thousands of public comments.

7. **Nullified regulations avoided.** Adoption of this proposed amendment package accomplishes one obvious outcome: the removal from the CSR of rules that, because they are stricter than Federal, will be nullified on December 31, 2015. This nullification happens automatically by law, regardless of whether the rules are stricken from the rule book.

To not act to remove these stricter regulations would create a tangle of virtually unsolvable complexity. The CSR would be full of written regulations that have no force or effect.

8. **Compliance options authorized.** This amendment package features several provisions that recognize the wide variety of operations and approaches to doing business that are present among Missouri generators and TSDs. Regulated entities in Missouri need flexibility to implement best practices in their individual facilities (or parts of facilities) that best meet their specific industry type, manufacturing sector, waste accumulation/generation rate, and waste hauling/disposal needs.

The proposed amendments give generators the option of complying with the Federal 50-foot setback rule, or a more restrictive set of provisions that allows storage within the 50-foot buffer.

The proposed amendments give TSDs the option of addressing hazardous waste containing railcars within the Federal time limit. Or, TSDs can comply with a more restrictive set of provisions, which includes a railcar plan, to gain a bigger window for processing railcars.

The proposed amendments give generators the option of complying with "old" Missouri DOT hazard labeling requirements while storing hazardous waste prior to offering for transport. Or, generators can comply with a new Missouri-specific labeling approach that for many may be less onerous or minimize confusion with complicated DOT labeling requirements.

The proposed amendment gives generators the option of complying with the Federal interpretation on quantities and container numbers in Satellite Accumulation Areas, or complying with the State interpretation that imposes the use of an accumulation start date (and one year limit), but allows greater than 55 gallons of waste to accumulate in certain instances where there is more than one waste stream.

These options are valuable, protective, and recognize the diversity of operations that are in our State. Adopting this amendment package will codify these options and improve compliance in Missouri.

For these and other reasons, we support the above-referenced proposed amendments and we encourage and request their adoption by the HWMC.

Restrictions on Options for Satellite Accumulation Areas

The proposed amendments regarding Satellite Accumulation Areas (SAAs) are good. They give Missouri generators the option to comply with what has been referred to as the Missouri Interpretation or the Federal Interpretation. Please see our comments above about the variety of generator operations that are present in the State, and in some instances, under the same roof.

We request the Commission adopt these provisions regarding SAAs.

This proposed rule can be improved to provide further flexibility needed by generators.

As proposed, this rule, if adopted, would require a generator to employ only one approach to compliance, *i.e.*, either Federal or Missouri interpretation, at his or her facility, and that this approach be declared in a notice to the Department.

The Hazardous Waste Program has indicated that these two provisions are needed because inspectors would not know which option the generator had employed at each SAA.

We assert that determining which system is in use, and therefore which actions or failures to take action constitute a violation under that system, is simple and direct.

If an inspector sees containers in a SAA with accumulation start dates, the State interpretation is in effect. The generator would be in violation if:

1. More than one container is in use for any waste stream,
2. Any waste stream exceeds 55 gal. of waste beyond the 72 hour full date,
3. Any waste is accumulated 1 year beyond the accumulation start date, or
4. A full container lacks a full date.

If an inspector sees containers in a SAA without an accumulation start date, the Federal interpretation is in effect. The generator would be in violation if:

1. The total quantity of waste from all waste streams combined exceeds 55 gal. 72 hours beyond full date,
2. A full container lacks a full date.

We request that the Commission propose and adopt an amendment to the proposed rule that deletes 10 CSR 25-5.262(2)(C)3.A. If adopted, this change to the Missouri regulations would allow a generator to comply with either the Federal interpretation or the State interpretation at any SAA in his or her facility without restriction and without notification to MDNR.

The HWMC is not required to adopt the proposed amendment in 10 CSR 25-5.262(2)(C)3.A. Because generators have the option to comply with the Federal interpretation, the SAA provisions in this proposed amendment, taken together, are not stricter than Federal. Therefore, they are not prohibited by RSMo 260.373.

If the Commission chooses not to eliminate these proposed SAA restrictions, we request that the Commission propose and adopt language that allows the use of both interpretations at any single facility as long as the generator notifies the Department in a narrative fashion which types of SAA (e.g., paint booth waste) will use each interpretation.

If the Commission chooses not to offer that flexibility, we request that the Commission adopt the proposed rule amendment as is.

Hazard Labeling Before Transport

For decades, Missouri regulations have required generators to affix a DOT label on hazardous waste containers in storage before the containers are offered for transport. This is not a Federal requirement. A DOT label on a hazardous waste container is only required under Federal regulations at the time the container is offered for off-site transport.

Some generators don't transport all or any of their waste. This results in Missouri facilities having storage rooms with hazardous waste containers that are labeled for transportation that will never be transported. Because hazardous waste containers are typically not static (generators are adding to containers and repackaging waste in other containers), generators must remove and replace old labels regularly.

The Department has viewed this provision as a needed hazard alert mechanism that cautions people who are near the containers, most notably first responders, that there is a potential hazard, and provides a general idea of what that hazard is.

The DOT labeling requirements and the new optional Missouri-specific hazard labeling requirements in the proposed amendments are not needed. The imposition of these labeling requirements detracts from the actual concern: a significant number of generators are failing to comply with the Federal and State requirements to familiarize local first responders with their facilities.

If generators are complying with existing regulations, untrained employees will not be moving through hazardous waste storage areas unaware of the hazards. If generators are complying with existing Federal regulations, each container will be clearly marked "Hazardous Waste." If generators are complying with existing Federal regulations, first responders will not need to enter the hazardous waste storage area and visualize a label to know what is in those hazardous waste containers. They will know because they've been familiarized with the facility and its contents before they even arrive.

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First responders who participated in stakeholder meetings made it clear that these familiarization visits are not occurring.

This issue calls for a compliance and enforcement effort aimed at ensuring that generators are notifying first responders and bringing them out to their sites to make them aware of their operations, the location of their hazardous waste containers, and their contents.

It does not call for labeling on containers.

We request that the Commission propose and adopt an amendment to the proposed rule that deletes 10 CSR 25-5.262(2)(C)1 and its sub-paragraphs A. and B. If adopted, this change to the Missouri regulations would leave in place the Federal requirement to label each container with "Hazardous Waste" and affix a DOT label only at the time it is being offered for transport.

The HWMC is not required to adopt the proposed amendments in 10 CSR 25-5.262(2)(C)1. RSMo 260.373 says that "the commission may retain, modify, or repeal any current rules pertaining to... (d) Rules requiring hazardous waste generators to display hazard labels...."

If the Commission chooses not to eliminate these proposed hazard labeling requirements, we request that the Commission adopt the proposed rule amendment as is.

New Tanks Labeling

Missouri has never had a hazardous waste tank hazard labeling regulation, other than the requirement that it be labeled "Hazardous Waste." This is true of Federal hazardous waste regulations as well.

This proposed amendment requiring hazard labeling on tanks is a completely new provision. Our greater than 30-year track record in Missouri with no problems or issues in this area makes clear that no additional regulation is needed at this time.

Adding new hazard labeling for tanks creates additional burden, additional costs, and, once again, introduces a discrepancy between Federal and State rules that causes confusion.

We request that the Commission propose and adopt an amendment to the proposed rule that deletes 10 CSR 25-5.262(2)(C)2. If the rule package is adopted absent 10 CSR 25-5.262(2)(C)2, the result would be no change to the current Missouri regulations pertaining to hazard labeling on hazardous waste tanks.

The HWMC is not required to adopt the proposed amendments in 10 CSR 25-5.262(2)(C)2. RSMo 260.373 says that "the commission may retain, modify, or repeal any current rules pertaining to... (d) Rules requiring hazardous waste generators to display hazard labels...."

If the Commission chooses not to eliminate the proposed new hazard labeling requirements for tanks, we request that the Commission adopt the proposed rule amendment as is.

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NFPA Compliance

In the Fiscal Note for the proposed amendments and in the Regulatory Impact Report for this rule package, the Department communicates either directly or by inference that generators who have hazardous waste tanks must affix a hazard label on the tank to comply with 10 CSR 25-5.262(2)(C)2. This is not accurate. It creates confusion, and it could lead to non-compliance.

The proposed 10 CSR 25-5.262(2)(C)2 requires tank owners to comply with NFP 704. NFP 704 Section 4.3 requires the square-on-point signs (also known as diamonds) to be placed on two exterior walls, each access to a room or area, and on each principal means of access to an exterior storage area.

While affixing the NFPA diamond onto a tank may be in compliance with NFPA 704, failing to do so, while complying with the clear requirements in Section 4.3 is not a violation.

Directly communicating a requirement to affix the diamond on a tank, or inferring it, creates once again a novel Missouri-specific twist on a well-understood and widely complied with national standard.

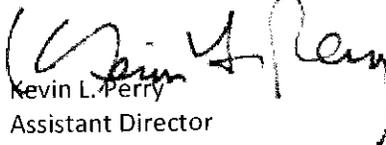
We request that the Department discontinue this type of communication and correct the record so generators with tanks will not be caught between two competing systems, and so inspectors will be correctly trained on the requirements of NFPA 704, should the proposed 10 CSR 25-5.262(2)(C)2 be adopted as regulation in Missouri.

Closing

Thank you for considering our comments and requests.

We look forward to continuing to work with the Department on the process of implementing 260.373 RSMo by rule. Please contact me at (573) 680-5069, or via email at kperry@regform.org, if you have any questions.

Sincerely,


Kevin L. Perry
Assistant Director

c: D. Lamb, HWP
R. Walker, REGFORM
REGFORM Members

**MISSOURI HAZARDOUS WASTE MANAGEMENT COMMISSION
CERTIFICATION OF ADOPTION OF ORDERS OF RULEMAKING
August 20, 2015**

In accordance with Section 260.400.5(3) RSMo, the members of the Hazardous Waste Management Commission certify the adoption of the Orders of Rulemaking to amend fourteen rules in Title 10, Division 25 of the Code of State Regulations. The amendments would implement the requirements of Section 260.373 RSMo, the “no stricter than” statute, and also adopt federal rules promulgated between July 1, 2010 and July 1, 2013, plus two additional federal rules, the solvent wipes rule and the electronic manifest rule.

Charles Adams, Chairman

Elizabeth Aull, Vice-Chairman

Michael Foresman, Commissioner

Mark Jordan, Commissioner

Andrew Bracker, Commissioner

Jamie Frakes, Commissioner

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-3.260 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 626). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM’s comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry’s additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Perry stated in his oral testimony that the proposed amendment of this rule leaves in place twenty two definitions that, although allowed, should be moved to other chapters and three definitions that he believes are not allowed because they are different than the federal definition and are therefore prohibited by Section 260.373. The three definitions he pointed out are the definition of hazardous waste, the definition of transporter, and the definition of universal waste.

RESPONSE: **Definition of hazardous waste**—The department disagrees that a state definition that is different than a federal definition is *per se* stricter. Notwithstanding that, the department believes the statutory authority exists to retain the current regulatory definition of hazardous waste. Section 260.373 generally limits the commission’s authority to promulgate regulations that are stricter than certain corresponding federal regulations; however, that limitation is not absolute. There are a number of exceptions to Section 260.373, including that:

1. “Nothing in [section 260.373] shall be construed to repeal any other provision of law, and the commission and the department shall continue to have the authority to implement and enforce other statutes, and the rules promulgated pursuant to their authority”; and,
2. “...[W]here state statutes expressly prescribe standards or requirements that are stricter than or implement requirements prior to any federal requirements, or where state statutes allow the establishment or collection of fees, costs, or taxes, the commission may promulgate rules as necessary to implement such statutes[.]”

Id.

The regulatory definition of hazardous waste substantially mirrors the definition found in Section 260.360, thus retention of the regulatory definition does not conflict with the limitations of Section 260.373. Additionally, Section 260.370 gives the commission the express authority to promulgate:

Rules and regulations establishing criteria and a listing for the determination of whether any waste or combination of wastes is hazardous for the purposes of sections 260.350 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics.

Id.

Definition of transporter and universal waste—These definitions relate to the federal regulations on hazardous waste transporters and the federal regulations on universal waste. The federal regulations on transporters are in 40 CFR part 263 and the regulations on universal waste are found in 40 CFR part 273, neither of which is affected by the limitations in Section 260.373, which only limit Missouri’s ability to have stricter regulations than those found in specific parts of the federal regulations. Although these definitions are found in Chapter 3, and Chapter 3 is one of the chapters listed in Section 260.373, the fact that they relate to other subjects that are not

listed in the limitation of the commission's authority means that they may be retained. Moving the definitions to Chapter 6 and Chapter 16 respectively would avoid any confusion about whether they are subject to the statutory limitation in Section 260.373, but the department believes it makes more sense to leave them in the rule in which the definitions for all chapters of the hazardous waste rules are found because definitions will be easier to find and definitions used in multiple rules will only have to be defined once.

Remaining definitions—For the twenty two definitions referenced in the comment that relate to other chapters even though they are in Chapter 3, it makes more sense to leave those definitions where they are in a rule whose specific purpose is to contain all relevant definitions in one place because definitions will be easier to find and definitions used in multiple rules will only have to be defined once. No change was made in response to this comment.

COMMENT #3: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those specific rules.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-4.261 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 629). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

COMMENT #3: The department received two comment letters from entities supporting the proposal to adopt the federal rule which establishes a conditional exclusion from hazardous waste regulation for solvent-contaminated wipes. The exclusion is one of the federal rules proposed for adoption in this group of proposed amendments and is the rule referenced by the citation to 78 FR 0, July 31, 2013, found in section 10 CSR 25-4.261(1) of the proposed amendment.

Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Jessica Franken, Director of Government Affairs for INDA, the Association of the Nonwoven Fabrics Industry, both wrote to express the support of their organizations for Missouri's proposed adoption of the solvent wipes rule.

In their letters, they detailed the lengthy process of development for the rule, which is been in development for more than 28 years, and stated that the rule is based on rigorous scientific analysis and was developed with input from a broad range of impacted stakeholders, including both associations. They requested that the department adopt the rule and implement its provisions as soon as possible.

RESPONSE: The department appreciates the letters of support submitted in favor of adoption of the rule. Department staff have been aware of and involved in the development of management standards for these materials in Missouri and the rule is a good step forward in establishing uniform management standards for these materials that are protective and appropriately based on the risk that they present. The department has received more inquiries about and support for the adoption of this federal rule than any other federal rule proposed in recent years and agrees that

adoption of the rule makes sense for Missouri businesses and generators of the materials that are eligible for the exclusion.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-5.262 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 631). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more

level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those specific rules. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those specific rules.

COMMENT #3: Mr. Evan Bryant, a Missouri citizen, commented on the proposed changes to 10 CSR 25-5.262. Mr. Bryant stated that he strongly disagrees with the amendment to 10 CSR 25-5.262(2)(C)3. on p. 634 regarding Satellite Accumulation. The proposed amendment would establish a dual system where generators could choose to operate under the Missouri rule or under the federal rule for satellite accumulation areas. Mr. Bryant stated that in the past, just having Missouri regulations which differed from the federal regulations was confusing to many generators, especially businesses from out of state and generators with a limited working knowledge of the regulations.

He added that the amendment to establish a dual system with two separate sets of regulations depending on the generator's chosen option will add to the confusion, which will make understanding of and compliance with the appropriate regulation more difficult for all but the largest generators.

Mr. Bryant stated that while the requirement that a generator update their generator registration information if they choose to operate under the Missouri satellite accumulation rules attempts to provide clarification for department staff on which set of regulations to apply at a facility, the registration requirement will in fact give generators the ability to claim that, if they fail to update their generator registration, they are not violating satellite accumulation rules but rather that they are only registered inappropriately and that it's only "paperwork violations". Trying to determine the nature of the violation in this situation has the potential to make compliance with two separate systems for the same activity difficult for the regulated community and the regulators.

In aligning with the federal regulations, in the spirit of the "no stricter than" legislation, and to facilitate a smooth transition to new satellite accumulation regulations Mr. Bryant encouraged the Missouri Hazardous Waste Commission to simply adopt the straight federal regulations as Missouri's only satellite accumulation regulation. This will make it simpler and easier on regulatory staff (both federal and state) as well as interstate businesses and the regulated community which would all then have the same regulations as the rest of the country.

RESPONSE: This comment requests that Missouri abandon the dual regulatory approach and eliminate the Missouri-specific rule language entirely, which would make the requirements for satellite accumulation areas in Missouri identical to the requirements found in the federal regulations. While this would be very simple and easy to understand, it would provide no flexibility to Missouri generators who currently benefit from being able to utilize satellite accumulation areas in a manner which would not be allowed under the federal regulations. Specifically, having to keep the total volume of hazardous waste from all waste streams below 55 gallons of total accumulation would result in generators reaching the accumulation limit for individual satellite areas more quickly and, as a result, having to move containers more frequently and also to move containers that are only partially full.

Missouri's current approach to satellite accumulation areas, which the department has proposed to retain as one of the two options, provides more flexibility in the total accumulation of hazardous waste by allowing 55 gallons of storage for each waste stream, with the condition that containers can only be in a satellite accumulation area for one year before being moved to storage or shipped off site. Missouri has consistently believed that the length of time containers are stored is more critical from a harm prevention standpoint than the amount of total accumulation. The longer a container is stored, the greater the chance for the container's condition to deteriorate, and the greater the possibility that the generator loses track of the container or its contents.

Retaining the Missouri option will allow Missouri generators who are familiar with the current system and who benefit from the additional flexibility in the amount of waste that can be stored to continue doing so. Taking the Missouri option away will force these generators to manage their satellite areas under the federal option and the department has consistently heard from generators that they prefer the Missouri option over the federal option. While it may be confusing initially to implement the dual regulatory system, the department believes that this confusion can be minimized with training and outreach and that ultimately it will be beneficial to generators to retain the Missouri option. No change is proposed in response to this comment.

COMMENT #4: Mr. Shanks provided comments on the proposed changes to the requirements for satellite accumulation areas found on page 634 of the proposal at 10 CSR 25-5.262(2)(C)3. His comments relate to the requirement that generators notify the department if they choose to follow the Missouri rule for these areas, and to the requirement that all satellite accumulation areas must operate under the same requirements. The commenter acknowledges that the proposed options for satellite accumulation areas accommodate the reality of different waste generator satellite areas but notes that, at Boeing, some areas are a better fit for one option and other areas are a better fit for the second option.

Mr. Shanks states that, unfortunately, the rule as proposed would require all generators who wish to follow the Missouri option to notify the department of this fact, and would require the generator to follow either option throughout the entire facility that operates under a single generator identification number. He states that he believes notification is not necessary, but if the commission feels that it serves some purpose, he proposes a change to the proposal which would modify the notification requirement to provide for the possibility that a generator can describe specific areas of the plant where the generator intends to use one or the other compliance option.

COMMENT #5: Mr. Perry requested that the Commission propose and adopt an amendment to the proposed rule that deletes 10 CSR 25-5.262(2)(C)3.A. This provision requires a generator to notify the state if it chooses to continue to operate under the Missouri rules for satellite accumulation, instead of the federal rules. Elimination of this notification requirement would allow a generator to comply with either the federal interpretation or the state interpretation at any satellite accumulation area in his or her facility without restriction and without notification to the department. Mr. Perry, speaking for REGFORM members notes that while the department has indicated that this requirement is needed so that inspectors know in advance of an inspection which option the generator had chosen, we believe that determining which system is in use is simple and direct and therefore requires no advance notice. He states that an inspector need only look for a start date on containers within each satellite accumulation area to determine whether the area is operating under the federal option or under the state option.

Mr. Perry noted that the Commission is not required to adopt the proposed amendment in 10 CSR 25-5.262(2)(C)3.A. and that, alternatively, if the Commission chooses not to eliminate the state-specific requirements proposed in this section of the rule, that additional language be added to the rule to allow the use of both the state interpretation and the federal interpretation at any single facility as long as the generator notifies the Department in a narrative fashion which types of satellite accumulation areas (*e.g.*, paint booth waste) will use each interpretation.

If the Commission chooses not to eliminate the notification requirement or to allow the use of both the federal and state interpretations at the same facility as described in the above comment. Mr. Perry requested that the Commission adopt the proposed rule amendment as is.

COMBINED RESPONSE TO COMMENT #4 and #5: Mr. Shanks' comments and Mr. Perry's comments above overlap on many of the significant points raised in the comments and in the response requested to those comments. For example, both commenters state that the notification requirement is not needed because determining which system is being utilized in individual satellite areas can be easily done by simple observation of the containers in that area. The need for a notification requirement was discussed by stakeholders at length during the stakeholder meetings that preceded the proposal of this group of rules. While the department acknowledges that some stakeholders, including REGFORM and Boeing, continue to believe that notification is not necessary, the department continues to believe that notification serves a legitimate purpose. The purpose of the notification requirement is to provide information to facility satellite accumulation operators and department inspectors in advance of an inspection of a facility so that there is no possibility for confusion about which option, rules and conditions apply to the

facility's satellite accumulation areas. Clarity on standards should benefit both the satellite accumulation operators in assuring safety and compliance, and the inspector in quickly and accurately assessing compliance with the regulations that apply. It will save both facility managers and inspectors time and effort during and after inspections. The commenters stated that an inspector could easily determine which system was in use within a satellite accumulation area by looking for a date on the containers. They stated that if the containers are dated, the operator of the satellite accumulation area must be using the Missouri option because the federal regulations do not require a date on the containers. However, the fact that a date is displayed on a container does not necessarily mean that the operator is following the Missouri option. While it is not required under the federal option there is nothing that would prohibit a date from being displayed on a container. Therefore the presence of a date alone is not sufficient documentation that the generator has chosen to operate under the Missouri option. The notification requirement will eliminate any confusion about which system is in effect for all satellite accumulation areas at a facility.

Similarly, the requirement for generators to choose a single system to operate under at each facility will ensure that there is no confusion or misunderstanding about which requirements apply in which area. Satellite storage areas are not typically identified by type of waste or area (e.g., paint booth waste), drum labels can vary from "hazardous waste" to any other words that describe the contents, and because both federal and state rules allow multiple waste types to be stored in one satellite area. In addition, there are no specifications for required distance between areas. More than one area can have the same "operator" or each area at a facility may have a different operator. This can lead to confusion if more than one option is allowed within a single facility. Clarity in the interest of safety is important as there is potential for storage of very large quantities of various types of hazardous waste in high-traffic operation areas with higher worker exposure. The federal option allows for smaller quantities of waste to be stored for a longer period of time before they reach the quantity limit while the Missouri option allows larger quantities of waste to be stored but only to a maximum of one year before being moved to the storage area and ultimately moved off site. Each system strikes a balance between the quantity of waste being stored in a single satellite accumulation area and the length of time the waste is allowed to be stored. Since generators have the ability to utilize multiple satellite accumulation areas in the same general area of a facility, allowing both systems to be used in a single facility would disrupt the balance between the quantity of waste being stored and the length of time the waste is stored on which each system is based. Satellite accumulation areas within a facility are not intended to allow for both long term storage and storage of large quantities of waste. Each situation presents an increased risk and limiting generators to one system or the other will ensure that the proper balance is struck between the length of time the waste is stored and the quantity of waste that is being stored. The department believes that requiring facility operators to choose a single system to use for their entire facility will eliminate any confusion about which system is in effect, will ensure that there is a proper balance between the length of storage and the quantity of waste being stored, and ultimately ensure a safer work environment. No change is proposed in response to this comment.

COMMENT #6: Mr. Greg Carrell, Acting State Fire Marshal with the Department of Public Safety, Division of Fire Safety commented in support of the proposed amendments related to marking of hazardous waste containers and hazardous waste storage tanks. Mr. Carrell stated

that the Fire Marshal's Office was involved in the development of a compromise regarding changes to these requirements that lessened the impact on business owners while still providing for the safety of first-in responders. Mr. Carrell stated that the proposed changes to 10 CSR 25-5.262(2)(C)1. and (2)(C)2. reflect the compromise that was made. Mr. Carrell asked the commission to adopt the rule as proposed in order to provide for the continued safety of our fire service, law enforcement, emergency medical and haz-mat responders.

RESPONSE: The proposed changes to the requirements for what information about the contents of hazardous waste containers and hazardous waste tanks must be displayed, and also where that information must be displayed generated multiple comments. The proposed changes to this section of the rule are found in 10 CSR 25-5.262(2)(C)1. and (2)(C)2., found on pages 632 and 633 of the proposed amendments in the Missouri Register. The primary issue with both the proposed requirements for labels on hazardous waste containers and labels for hazardous waste tanks is that the proposal includes Missouri requirements that are in addition to what is required in the federal regulations.

The State Fire Marshal's Office was an active participant in the stakeholder group that developed the compromise language relating to labeling requirements for hazardous waste tanks and hazardous waste containers. The department appreciates the support from the Department of Public Safety for the adoption of the Missouri-specific requirements that were proposed. No change is proposed in response to the comment.

COMMENT #7: Mr. Perry commented on the amendment to the labeling requirements for hazardous waste containers in 10 CSR 25-5.262(2)(C)1. This amendment requires generators to either follow the current Missouri rule or to label containers with additional words describing the contents of the container. Mr. Perry notes that the current requirement that generators must affix a United States Department of Transportation (DOT) label on hazardous waste containers in storage before the containers are offered for transport, has been required in Missouri for decades but results in Missouri facilities having to label containers even though they will never be offered for shipment. The department maintains that this requirement is necessary to provide information about the contents of the container to those who are near the containers, including emergency responders. Mr. Perry states that both the current Missouri requirement which requires DOT labels and the proposed amendment which requires additional words to identify the contents of a container are not needed and that these additional requirements detract from the actual concern, which is that many generators are failing to comply with federal and state requirements to familiarize local first responders with their facilities, and with the types and quantities of substances being stored at their facility. If generators are complying with those requirements, additional information on the container itself is not necessary because first responders will already have the same information because it will be provided in advance during the outreach efforts required by both federal and state regulations.

Mr. Perry requests that the commission propose and adopt an amendment that deletes 10 CSR 25-5.262(2)(C)1 and its subparagraphs A. and B. If adopted, this amendment would leave in place the federal requirement to label each container with the words "hazardous waste" and to affix a DOT label only at the time the container is offered for transport. Alternatively, if the

commission chooses not to eliminate these proposed hazard labeling requirements, he requests that the amendment be adopted as proposed.

RESPONSE: The proposed changes to this section of the rule are found in 10 CSR 25-5.262(2)(C)1., found on pages 632 and 633 of the proposed amendments in the Missouri Register. The primary issue with the proposed requirements for labels on hazardous waste containers is that the proposal includes Missouri requirements that are in addition to what is required in the federal regulations.

The rules for labeling hazardous waste containers are based on one of the statutory exclusions found in Section 260.373.1 RSMo. That exclusion was written into the statute based on concerns expressed by emergency responders in Missouri that additional information about the contents of hazardous waste containers was beneficial because it provided necessary information in the event of a response or release situation. In response to those concerns, compromise language was developed that both reduced the current Missouri requirements for labeling hazardous waste containers and established new requirements for the placement of hazard labels at facilities utilizing hazardous waste tanks. The compromise language was accepted by stakeholders, although the department acknowledges that some stakeholders continued to state that the same information could be made available to emergency responders by enforcing existing regulations that require prior coordination and communication with local emergency responders. The department has updated inspection checklists to include the full text of the regulations for these requirements, and has discussed with inspectors the need to focus on these requirements in consideration of stakeholder concerns and the need to improve compliance with those requirements. However, the department continues to believe that the requirements for labeling hazardous waste containers are justified based on the importance of the information on the labels and its role in providing important detail about container contents (e.g., if waste is hazardous because it is flammable vs. being corrosive), and in preventing accidental mixing of incompatible wastes and the serious harm that can result from the human exposures, fires, explosions or releases that can occur as a result. For this reason, the department recommends adopting the amendment as proposed and no changes are proposed in response to the comments requesting the elimination of the Missouri requirements for labeling hazardous waste containers.

COMMENT #8: Mr. Perry stated that Missouri has never had a hazardous waste tank hazard labeling regulation and that the proposed amendment would establish a new Missouri specific requirement for labeling these tanks. No additional regulation is needed at this time. The proposed amendment to this regulation will create additional burden, additional costs, and introduces a discrepancy between state regulations and federal regulations. He requests that the commission propose and adopt an amendment to the proposed rule that deletes 10 CSR 25-5.262(2)(C)2. Mr. Perry states that if this amendment is adopted, the result would be no change to current Missouri regulations for labeling hazardous waste tanks. In the alternative, if the commission chooses not to eliminate the proposed new hazard labeling requirements for tanks, he requests that the commission adopt the proposed rule amendment as is.

RESPONSE: This proposed amendment relates to what information about the contents of hazardous waste tanks must be displayed, and where that information must be displayed. The proposed changes to this section of the rule are found in 10 CSR 25-5.262 (2)(C)2., found on

page 633 of the proposed amendments in the Missouri Register. The primary issue with labels for hazardous waste tanks is that the proposal includes Missouri requirements that are in addition to what is required in the federal regulations.

The rules are based on one of the statutory exclusions found in Section 260.373.1 RSMo. That exclusion was written into the statute based on concerns expressed by emergency responders in Missouri that additional information about the contents of hazardous waste tanks was beneficial because it provided necessary information in the event of a response or release situation. In response to those concerns, compromise language was developed in a stakeholder group that both reduced the current Missouri requirements for labeling hazardous waste containers and established new requirements for the placement of hazard labels at facilities utilizing hazardous waste tanks. The compromise language was accepted by stakeholders, although the department acknowledges that some stakeholders continued to state that the same information could be made available to emergency responders by enforcing existing regulations that require prior coordination and communication with local emergency responders. The department has updated inspection checklists to include the full text of the regulations for these requirements, and has discussed with inspectors the need to focus on these requirements in consideration of stakeholder concerns and the need to improve compliance with those requirements. However, the department continues to believe that the requirements for labeling hazardous waste tanks are justified based on the importance of the information on the labels to facility operators and others who place material in tanks onsite, and its role in preventing accidental mixing of incompatible wastes in large volumes and the serious harm that can result from human exposures, the fires, explosions or releases that can occur as a result. For the reasons noted above, no changes are proposed in response to the comments requesting the elimination of the Missouri requirements for the placement of hazard labels in facilities utilizing hazardous waste tanks.

COMMENT #9: Mr. Perry states that in the fiscal note for this rule, the department infers or states directly that generators must place hazard labels on the tank itself to comply with 10 CSR 25-5.262(2)(C)2. The proposed amendment to this section requires generators to comply with NFPA Standard 704. That standard actually requires the signs to be placed on two exterior walls, on each access to a room or area, and on each principal means of access to an exterior storage area. While affixing the NFPA diamond on the tank may be in compliance with the standard, failure to do is not a violation and we request that the department correct the record and clarify what is actually required to be in compliance with NFPA 704.

RESPONSE AND EXPLANATION OF CHANGE: Mr. Perry correctly notes that the NFPA Standard 704 does not require that hazard labels be affixed to a tank, and that in various places the fiscal note infers or states directly that labels be placed “on” the tank. The fiscal note has been amended to accurately state the requirements to NFPA 704 and to eliminate any inferences that the standard requires labels to be affixed to the tank itself.

COMMENT #10: Mr. Shanks commented in support of the proposed changes to the requirements for manifest exception reporting. These changes are found in two different rules, 10 CSR 25-5.262 and 10 CSR 25-13.010, which are on page 635 and page 667 of the proposed amendments published in the Missouri Register.

The proposed change would eliminate the Missouri requirement relating to when generators must prepare and submit an exception report. Mr. Shanks commented that, under the current Missouri rule, reports are sometimes required in situations where the report serves no purpose, since the waste that is the subject of the report has already been determined not to be missing. Eliminating the Missouri requirement means that generators only have to prepare and submit a report in situations where the report is required in the federal rules, as incorporated by the state. The federal rule does not require the report if the completed manifest is received within 45 days of the shipment. Since the point of the report is to document waste shipments for which a completed manifest has not been received, as long as the completed manifest has been received within 45 days, there is no need for the report.

RESPONSE: The department appreciates the support for the proposed changes to these two rules, which would eliminate the need to prepare and submit an exception report in situations as long as the completed manifest is received within 45 days, as stated in the federal rules. Although the department will have less readily available information on which to determine that manifest discrepancies occurred and why, with stakeholder input, the department has determined that these reports are not necessary when the completed manifest is received within the federal regulatory timeframe of 45 days for large quantity generators and 60 days for small quantity generators. Identifying and eliminating unnecessary state requirements is one of the primary purposes of this group of proposed amendments and the department acknowledges the support of stakeholders for this proposed change. No change is made in response to this comment.

COMMENT: A department staff member pointed out an error and unnecessary duplication in the text of the proposed amendment. The error and duplication was found on page 634 of the proposed amendment in 10 CSR 25-5.262(2)(C)3.D regarding length of storage time in a satellite accumulation area. The words “shall be” were inadvertently included in two places in the version of the proposed amendment published in the Missouri Register and the first “shall be” in D. should be deleted from the final rule text for this provision. The second occurrence of the words “shall be” in D. is correct. We are also removing the phrase “for more than one (1) year” from D. as it is essentially duplicated in D.(I). Both have been corrected in this Order of Rulemaking.

RESPONSE AND EXPLANATION OF CHANGE: The department has made the requested changes in the text of the Order of Rulemaking. The revised text is reprinted below as it will be published in the Code of State Regulations.

(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.

(C) Pretransport, Containerization, and Labeling Requirements.

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

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

REVISED FISCAL NOTE: The department received a comment on the proposed amendment pointing out that the original published fiscal note contained some incorrect statements in the narrative portion of the fiscal note concerning National Fire Protection Association Standard 704 and what that standard specifically requires for hazardous waste tanks. The revised fiscal note included with this Order of Rulemaking has a revised narrative that includes changes made in response to this comment. The revised language in the narrative explains that, as pointed out in the comment, the standard does not require that labels be affixed to the tank itself.

REVISED 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 it should be noted that the standard does not require that the labels be affixed to the tank. Rather, the standard actually requires the signs to be placed on two exterior walls, on each access to a room or area, and on each principal means of access to an exterior storage area. While affixing the NFPA diamond on the tank may be in compliance with the standard, failure to do is not a violation, as pointed out in the comments on the original fiscal note that was published with the proposed amendment.

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 purchase the required labels 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 the appropriate labels are in place they will not need to be replaced 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 relating to 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 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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-6.263 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 639). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-7.264 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 639). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more

level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-7.265 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 650). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more

level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-7.266 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 655). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more

level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-7.268 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 656). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more

level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-7.270 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 657). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more

level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-8.124 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 662). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

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

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-9.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 663). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 11 – Used Oil

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-11.279 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 665). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Mark Reppond of Safety Kleen submitted a comment by email on May 26th, 2015. Mr. Reppond commented that in the proposed amendment of 10 CSR 25-11.279, a specific change that was discussed and agreed to during stakeholder meetings discussing the proposed changes to the hazardous waste rules was omitted. Specifically, this change would have amended item 10 CSR 25-11.279(2)(E)3.A. to remove a Missouri-specific regulation

requiring all used oil shipments to be recorded on a state form (the Missouri Transporter's Used Oil Shipment Record).

Mr. Reppond stated that the reason for getting rid of the requirement to use the Missouri form is that it is duplicative because there is an equivalent federal regulation that transporters of used oil must already follow. He notes that the Missouri-specific form is not recognized by states other than Missouri and, when shipping in and to other states, it is common for both the Missouri form and the federal form to be prepared for each shipment. This costs transporters not only for the form, but administrative time preparing two separate shipping papers for each shipment. He also states that the Missouri form is not needed in order to comply with other parts of the regulation (completion of the Transporter's used oil annual report) as this information is readily available no matter the shipping paper utilized. Because the entire rule package proposed is in keeping with the "no stricter than" law, and discussion on this change occurred during the stakeholder process, the removal of this requirement should be included with the rule package being proposed.

RESPONSE AND EXPLANATION OF CHANGE: As noted above, this comment concerns the Missouri requirement to use the Missouri Transporter's Used Oil Shipment Record when sending shipments of used oil. The Missouri requirement is found in 10 CSR 25-11.279(2)(E)3.A. This change was briefly discussed with stakeholders prior to filing the proposed amendments that were published on July 15th but was not included in the proposed amendment because in discussions with stakeholders the department had primarily focused on changes related to the "No Stricter Than" statute and changes related to adoption of new federal rules as the two major reasons for filing this proposed rule package. Because the proposed change to eliminate Missouri's requirement to use the Missouri form when shipping used oil did not quite seem to fit under either of these two general descriptions for why the rules were being amended, and to avoid any concerns about including changes that were not previously discussed, it was not included in the proposal. However, because the requirement is found in Section (2) of 10 CSR 25-11.279 and Section (2) is one of the sections that the department proposed to amend in the statement accompanying the proposed amendment, the proposed change requested in the comment is within the scope of the rule and can be included as a change in the Order of Rulemaking.

After considering the comment and further evaluating the nature of the change that is being requested, the department has determined that eliminating the Missouri requirement in this situation is consistent with many of the other changes being made to the Missouri hazardous waste rules in this group of proposed amendments. However, the Missouri form includes additional information such as a certification statement that facilitates and attests to the validity of oil contents and testing, allows for recording acceptance and delivery on the same form, and makes it possible for the state to more efficiently track and verify compliance on used oil shipments and to better protect citizens by assuring that PCBs and other hazardous wastes are not being shipped as used oil only. In this Order of Rulemaking, and in response to the commenter's request, the department has changed the word "shall" to the word "may" in 10 CSR 25-11.279(2)(E)3.A., which means that shippers of used oil may use the Missouri form but are not required to do so. Making this change would eliminate a state requirement that while potentially reducing compliance assurance capabilities for the department and used oil transporters will also save shippers of used oil both time and money since they would no longer have to prepare two

types of documents when shipping used oil. The department agrees to include a change to the text of the proposed amendment that would eliminate the requirement to use a Missouri form and make it optional. Therefore, the department has made the requested change in the text of the Order of Rulemaking. The revised text is reprinted below as it will be published in the Code of State Regulations.

COMMENT #2: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #3: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

(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.)

(E) Standards for Used Oil Transporters and Transfer Facilities. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart E.

3. In addition to the requirements of 40 CFR 279.46, incorporated by reference in this rule, the following shall apply:

A. The information described in 40 CFR 279.46(a)–(c), incorporated by reference in this rule, may be recorded on form MO 780-1449(11-93), the Transporter’s Used Oil Shipment Record, incorporated by reference in this rule and provided by the department; and

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 13 – Polychlorinated Biphenyls

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-13.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 666). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules. Mr. Perry's additional comments

on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

COMMENT #3: Mr. Shanks commented in support of the proposed changes to the requirements for manifest exception reporting. These changes are found in two different rules, 10 CSR 25-5.262 and 10 CSR 25-13.010, which are on page 635 and page 667 of the proposed amendments published in the Missouri Register.

The proposed change would eliminate the Missouri requirement relating to when generators must prepare and submit an exception report. Mr. Shanks commented that, under the current Missouri rule, reports are sometimes required in situations where the report serves no purpose, since the waste that is the subject of the report has already been determined not to be missing. Eliminating the Missouri requirement means that generators only have to prepare and submit a report in situations where the report is required in the federal rules, as incorporated by the state. The federal rule does not require the report if the completed manifest is received within 45 days of the shipment. Since the point of the report is to document waste shipments for which a completed manifest has not been received, as long as the completed manifest has been received within 45 days, there is no need for the report.

RESPONSE: The department appreciates the support for the proposed changes to these two rules, which would eliminate the need to prepare and submit an exception report in situations as long as the completed manifest is received within 45 days, as stated in the federal rules. With stakeholder input, the department has determined that these reports are not necessary when the completed manifest is received within the federal regulatory timeframe of 45 days. Identifying and eliminating unnecessary state requirements is one of the primary purposes of this group of proposed amendments and the department acknowledges the support of stakeholders for this proposed change. No change is made in response to this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 16 – Universal Waste

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission under sections 260.370 and 260.373 RSMo, the commission hereby adopts an amendment as follows:

10 CSR 25-16.273 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15th, 2015 (40 MoReg 670). This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: A public hearing was held June 18, 2015, and the public comment period ended June 25, 2015. At the public hearing the Department of Natural Resources testified that the fourteen amendments proposed to Title 10, Division 25 of the Code of State Regulations would make the changes to Missouri hazardous waste regulations required by Section 260.373 RSMo, would update Missouri's incorporation of the federal hazardous waste regulations from July 1, 2010 to July 1, 2013 plus two additional federal rules, and would make additional changes to the Missouri regulations that, although not required because they are not included in the statutory limitation or are based on one of the exclusions, are consistent with the changes required by Section 260.373 RSMo.

Mr. Kevin Perry, Assistant Director of the Regulatory Environmental Group for Missouri (REGFORM) and Mr. David Shanks, Environmental Policy Analyst for The Boeing Company testified at the public hearing and submitted written comments.

The department received written comments on the proposed amendments from Mr. Perry, Mr. Shanks, Mr. Greg Carrell, Acting State Fire Marshal, Mr. Evan Bryant, Mr. Mark Reppond from Safety Kleen, Ms. Jackie King, Executive Director of the Secondary Materials and Recycled Textiles Association, and Ms. Jessica Franken, Director of Government Affairs for INDA, Association of the Nonwoven Fabrics Industry.

The department received the following testimony or comments on the changes proposed to this rule. All comments relating to this rule are described below, as well as any change made to the text of the proposed rule in response to the testimony or comment.

COMMENT #1: Mr. Perry testified and stated in his written comments that REGFORM supports the adoption of the proposed amendments and that the amendments are the culmination of many years of deliberation, negotiation, and legislation aimed at bringing Missouri regulations into closer alignment with federal hazardous regulations, while continuing and enhancing protections to human health and the environment. Mr. Perry noted that the adoption of this package of proposed amendments will reduce confusion, reduce the risk of harm, ensure a more level playing field for Missouri businesses and educational institutions, and make Missouri regulations consistent with recently promulgated federal rules.

RESPONSE: The department appreciates REGFORM's comments in support of the adoption of the proposed amendments. Mr. Perry and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Perry's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually. No changes were made in response to this comment.

COMMENT #2: Mr. Shanks testified and stated in his written comments that The Boeing Company appreciates the closer alignment to federal rules that are proposed. He stated that Boeing and many other Missouri generators have operations in multiple states and that environmental compliance staff and other personnel commonly move from one facility to another. To the extent that state rules are consistent with federal rules, and are updated regularly to adopt new federal rules, it greatly eases the burden of retraining staff on state-specific rules.

RESPONSE: The department appreciates The Boeing Company's comments in support of the adoption of the proposed amendments. Mr. Shanks and other stakeholders were involved in the development of the proposed amendments and their support is noted and appreciated. Mr. Shanks's additional comments on specific provisions within individual rules will be addressed in the Orders of Rulemaking for each of those rules individually.

Missouri Hazardous Waste Management Commission Meeting

August 20, 2015

Agenda Item # 5

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

August 20, 2015

Agenda Item # 6

Missouri Risk Based Corrective Action Update

Issue:

The Tier 1 Risk-Based Target Levels (RBTLs) in the Departmental Missouri Risk-Based Corrective Action (MRBCA) guidance (and incorporated by reference into 10 CSR 25-18.010) have not been updated since they were first implemented in 2006. Since that time, the Environmental Protection Agency (EPA) has made several and significant changes to the methods and input factors used in developing their Regional Screening Levels (RSLs). As a result, the MRBCA RBTLs are now out of date and, in many cases, inconsistent with EPA's RSLs. The Hazardous Waste Program is proposing to update the RBTLs, with the assistance of the Department of Health and Senior Services (DHSS), by moving away from the models and inputs used in 2006 and instead using the methods and inputs used by EPA in developing their RSLs. This will result in very significant decreases in the RBTLs related to vapor intrusion. The effort will also entail adding several hundred additional chemicals of concern to the RBTL tables.

As with the RBTLs, the MRBCA guidance itself has not been updated since implementation in 2006. In implementing the guidance over the last nine years, HWP staff has identified a need to revise the guidance for clarity, to address issues not previously addressed, and to make changes necessitated by using different methods and inputs to develop the RBTLs.

While 10 CSR 25-18.010 allows the Department to update the guidance by holding a 60-day public comment period (rather than through a formal rulemaking), because the RBTLs are incorporated into rule by reference, they may only be updated via a formal rulemaking. Prior to beginning the formal rulemaking process, the HWP intends to first convene and meet with a stakeholder group to discuss the proposed changes to the RBTLs and some of the proposed guidance document changes. Only after the stakeholder meetings have concluded will the HWP begin the formal rulemaking process.

Information:

Information Only

Presented by:

Tim Chibnall, Director's Office, HWP

Missouri Hazardous Waste Management Commission Meeting

**August 20, 2015
Agenda Item # 7**

Tanks Financial Responsibility – Quarterly Update

Issue:

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

Information:

- Missouri law and regulation requires tank owners and operators to maintain FR so that they will have funds to take corrective action and compensate third parties for bodily injury and property damage if they have petroleum releases from their USTs.
- Recognizing the importance of this, the Hazardous Waste Management Commission approved the usage of an expedited enforcement procedure to address these facilities in August 2008.
- At that time, of the 3,374 facilities required to have financial responsibility, 184 facilities lacked coverage. A 95% compliance rate.
- As of July 29, 2015, of the 3,211 facilities required to have financial responsibility, 36 are currently without verified coverage. This equates to a 99% compliance rate.
- The expedited enforcement process is a valuable tool, allowing the Compliance and Enforcement Section (CES) to keep pace with the tasks and responsibilities of ensuring compliance with FR.
- As of July 29, 2015, 9 of those sites are currently at the Attorney General's Office for legal action, 19 have been issued Notices of Violations and 20 of those 36 have applications pending approval with the Petroleum Storage Tank Insurance Fund for coverage.

Recommended Action:

Information Only

Presented by:

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

Missouri Hazardous Waste Management Commission Meeting

August 20, 2015

Agenda Item # 8

E-Reporting Update

Issue:

The Hazardous Waste Management Commission will be provided an update on the Department's E-Reporting system, which went live on July 1, 2015. Information will be provided on the current progress and how the system has been working.

Recommended Action:

Information Only

Presented by:

Mr. David Green – Fees & Taxes Unit, Budget & Planning Section, HWP

Missouri Hazardous Waste Management Commission Meeting

August 20, 2015

Agenda Item # 9

Quarterly Report

Issue:

Presentation of the January through April 2015, Quarterly Report.

Recommended Action:

Information Only

Presented by:

Larry Archer – Public Information, Division of Environmental Quality

Hazardous Waste Management Commission Report

January through March 2015

Quarterly Report



Hazardous Waste Management Commissioners

Deron Sugg, Chair
Charles "Eddie" Adams, Vice Chair
Andrew Bracker
James "Jamie" Frakes
Elizabeth Aull
Michael Foresman
Mark E. Jordan

"The goal of the Hazardous Waste Program is to protect human health and the environment from threats posed by hazardous waste."

For more information:

Missouri Department of Natural Resources

Hazardous Waste Program

P.O. Box 176, Jefferson City, MO 65102-0176

www.dnr.mo.gov/env/hwp/index.html

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Past issues of the Hazardous Waste Management Commission Report are available online at www.dnr.mo.gov/env/hwp/quarterlyreport.htm.



Missouri Department of Natural Resources
Hazardous Waste Program

Cover Photo: Enos Green Property

Letter from the Director

Dear Commissioners:

This edition of the Commission Quarterly Report covers the time period of Jan. 1 through March 31, 2015. During this quarter, we have seen a lot of progress made on two very important rule issues that the program has been working on, our fee stakeholder effort and the “No Stricter Than” rule package.

In regard to our fee stakeholder efforts, meetings were held in January, February and March this quarter, which resulted in a proposal being developed for a potential change to the program’s fee structure. The proposal would change the current \$100 generator registration and renewal fee to a tiered fee structure assessing a \$150 fee for Conditionally Exempt and Small Quantity Generators and a \$500 fee for Large Quantity Generators. The proposal would also change the In-State Generator Fee from the current \$5 per ton to \$6.10 per ton, as well as change the minimum and maximum fees associated with this fee. The minimum fee would change from \$150, assessed to anyone generating less than 30 tons, to a minimum of \$200 per ton assessed on the first ton of waste, with each additional ton being assessed the \$6.10 per ton fee. The maximum amount for this fee would also change from \$52,000 to \$57,000. The proposal also included a change to the Land Disposal Fee. This fee is proposed to change from the current \$25 per ton to \$29.50 per ton or partial ton. These changes to the fee structure if ultimately approved are expected to generate an additional \$502,165 in annual revenues. While this proposed increase will not address all of the program’s projected funding shortfall, it is certainly a step in the right direction, and we are very appreciative of our stakeholders who have helped us work through this process to come up with a proposal that will be presented to the commission, and ultimately, if approved, taken through the formal rulemaking process.

In regard to the “No Stricter Than” rulemaking effort, on Feb. 20, 2015, the department published the Regulatory Impact Report, which began a 60-day comment period on the document. This currently puts the department on schedule to have this rule completed before the end of the year, which is required by law or the rules identified by the department previously as being more stringent would become null and void. It is expected that the public hearing for this rule will be held at the June 18 commission meeting, with the adoption to occur at the Aug. 20 commission meeting.

As you are aware, these two rule items will be a major focus for the program and the commission this year. As always, we appreciate the commission’s role in this process and look forward to working with you on these very important issues.

Beyond these rule efforts, however, the staff continues to be very busy doing their day to day activities. I hope you enjoy reading about these efforts in this edition of the Quarterly Report.

And finally, this quarter also sees us saying goodbye to Chairman Deron Sugg, who joined us for his final meeting in February. We appreciate the five years he has dedicated to the commission, his service as the Commission Chair and Vice-Chair and wish him the best of luck in his new endeavors as he moves out of state.

Sincerely,



David J. Lamb
Director

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Brownfields/Voluntary Cleanup Program Certificates of Completion

Brownfields are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant. Cleaning up and reinvesting in these properties protects the environment, reduces blight, and takes development pressures off greenspaces and working lands. Through this program, private parties agree to clean up a contaminated site and are offered some protection from future state and federal enforcement action at the site in the form of a “no further action” letter or “certificate of completion” from the state.

The Brownfields/Voluntary Cleanup Program (BVCP) issued seven certificates of completion for various sites from January through March 2015. This brings the total number of certificates of completion issued to 755.



Enos Green Property-Festus

The Enos Green Property site is located at 1200 American Legion Drive, Festus. The 1.43-acre site consists of a small business establishment with a parking lot located on the south side of the building. In August 1995, the property owner, Enos Green, discovered loads of dumped materials, which he believed might have originated from The Doe Run Company facility in Herculaneum. The results of a sampling investigation of some of the fill materials by the Missouri Department of Natural Resources’ Environmental Services

Program conducted on Aug. 25, 2000, found levels of arsenic, cadmium and lead significantly higher than background samples collected on the property. As part of a settlement agreement with The Doe Run Company and with concurrence of the Hazardous Waste Program’s Compliance and Enforcement Section, the site entered into the BVCP for oversight of the remediation. Approximately 781 tons of dross material and lead-contaminated material present on the property required removal. Removal of the materials was initiated with a single cleanup target level agreed to as part of a settlement agreement. The department determined that the site is safe for its intended use.

Citadel Plaza-Kansas City

The Citadel Plaza site is located at 63rd Street and Prospect Avenue, Kansas City. The subject property includes 155 parcels which are predominantly vacant. Historical usage of all site properties were residential (detached single-family), except for small commercial properties along Prospect Avenue and 63rd Street. These commercial properties included: dry cleaners, gas stations, an auto repair facility and a printing facility.

Successful excavation of buried suspect asbestos-containing materials (ACM) was completed on 58 parcels and the materials were disposed of as asbestos containing waste according to all applicable regulations. Fifty parcels contained soil mounds and/or concrete piles suspected of containing asbestos-containing building materials (ACBMs). The soil mounds and concrete piles on these 50 parcels were investigated and any confirmed ACM were removed from the property and disposed of as asbestos-containing waste according to all applicable regulations. The department determined that the site is safe for its intended use.

American TV & Appliance (Former)-Bridgeton

The former American TV & Appliance site is located at 5665 St. Louis Mills Boulevard, Bridgeton. This site is approximately 10 acres and lies within the boundaries of a former 30-acre water treatment lagoon. This site became a portion of the Bonfils Service Corporation’s trickling filter plant in 1957.

The site was converted into Bonfils sewage lagoon in 1973 and operated as a lagoon until 1995 when it was permanently closed. The site was developed with a store for use by American TV & Appliance in 2004, and the store closed in 2011. Metals, primarily arsenic and manganese, were found in the soil and groundwater above the default target levels (DTLs).

Groundwater monitoring indicated the plume was stable, and the contaminants are well below non-residential land use target levels. An environmental covenant is in place to ensure future non-residential land use and to prohibit the domestic use of groundwater at the site. The department determined that the site is safe for its intended use.

Dycron Plastics (former)-St. Louis

The former Dycron Plastics site is located at 4321 Finney Ave., St. Louis. The site is a vacant 0.57-acre property located in a mixed industrial, commercial and residential zone. The site contains a 25,011-square-foot, two-story brick and masonry structure and adjoining paved area. The site was developed around 1911 as a laundry company, which operated on the site until the early 1990s. Between 1921 and 1967, five underground storage tanks (USTs) were permitted and installed at the site. Three of the five USTs were discovered to still remain on-site in the spring of 2010 and were excavated in the summer of 2012. Contents of the USTs were determined to be gasoline, aqueous sodium hydroxide, and #5 boiler fuel oil.



A Tier 1 Risk Assessment Report evaluated the analytical data collected between 2012 and 2014 and compared the data to the 2006 Missouri Risk-Based Corrective Action (MRBCA) risk-based target levels (RBTLs) for current and future exposure routes and pathways. Based on the removal of the contaminant source and that concentration of contaminants in groundwater are below Tier 1 residential use RBTLs and that contaminants in the subsurface soil are below construction worker RBTLs, the site meets the requirements for unrestricted use. The department determined that the site is safe for its intended use.

Market Street Office Building-St. Louis

The Market Street Office Building site is located at 1010 Market St., St. Louis. The 0.822-acre site was developed in 1982 and consists of a 20-story office building that occupies the whole site. A historic filling station that had a UST was also identified adjacent to the site. The 2,000-gallon diesel UST was removed in 1998 and the department issued a no further action letter for its closure.

Site investigations revealed that the contamination from the UST removed in 1998 had impacted the soil and groundwater at the site. Indoor inhalation through soil vapor and groundwater; dermal contact, ingestion and outdoor inhalation through surficial soil were identified as exposure pathways.

Analytical results were compared to the 2006 MRBCA DTLs and residential Tier 1 RBTLs. All contaminants of concern for surficial soil and soil vapor samples were below DTLs or residential RBTLs. All contaminants of concern for groundwater were below DTLs with the exception of lead for the last three groundwater sampling events. However, as the drinking water pathway is incomplete for the City of Saint Louis, the groundwater contamination poses little risk.

Canadian Pacific - Excelsior Springs Yard-Excelsior Springs

The Canadian Pacific - Excelsior Springs Yard site is located at 1000 Dunbar Ave., Excelsior Springs. The property is a mile long portion of active railway in rural northwestern Missouri. Previous site use included bulk chemical storage, locomotive maintenance and a passenger station.

A 2010 Phase II Environmental Site Assessment (ESA) confirmed that impact to soil was either below detection limits, below DTLs, or within background concentrations for Clay County. However, total petroleum hydrocarbons gasoline range organics (TPH-GRO), total petroleum hydrocarbons diesel range organics (TPH-DRO), benzene and naphthalene were detected in groundwater above DTLs at various locations throughout the site. A Tier I Risk assessment was conducted in accordance with the 2006 MRBCA guidance in May of 2014 to determine the potential risk posed by groundwater contamination. A hydraulic conductivity study was included in the risk assessment. While contamination in groundwater was determined to be above safe standards for drinking, the conductivity test concluded that groundwater production is insufficient for domestic use. The domestic use pathway is therefore considered incomplete. Contamination was determined to be below safe target levels for all other MRBCA pathways. The site therefore qualifies for unrestricted use. The department determined that the site is safe for its intended use.

United States Gypsum-Kansas City

The United States Gypsum North Kansas City Plant site is located at 1115 Armour Road, North Kansas City. This site was established in 1926 and has been continually owned and operated by United States Gypsum. The site consists of a main office, waste paper warehouse, paper manufacturing building, and rail and truck loading docks. The facility continues to produce paper lining used in the manufacturing of gypsum wallboard. A cleanup of a release from regulated USTs at this site is currently ongoing and being overseen by the department's Tanks Section. However, during the removal of two non-regulated fuel oil aboveground storage tanks (ASTs), soil contamination was discovered resulting from these ASTs and not from the regulated USTs. The site applied to the BVCP to address the contamination from the fuel oil ASTs.

Site characterization reports indicated levels of polycyclic aromatic hydrocarbons (PAHs) and TPH-DRO in soil that exceed the MRBCA guidance document's residential RBTLs. No contamination was detected in groundwater above the DTLs. Limited excavation was conducted to remove excessive contamination. A risk assessment in accordance with the MRBCA guidance indicated that remaining soil contamination meets RBTLs for non-residents and construction workers. However, since PAH contamination remains in surface soil, and TPH-DRO in subsurface soil, that exceeds residential RBTLs an environmental covenant is in place to ensure future non-residential land use. The department determined that the site is safe for its intended use.

Sites in Brownfields/Voluntary Cleanup Program

Month	Active	Completed	Total
January 2015	222	751	973
February 2015	233	754	987
March 2015	231	755	986

New Sites Received: 14

January

Walmart Market #4057-00, Joplin

February

- Kemper Military School Administration Building, Boonville
- Solar Trasport Tanker Release, Brookline
- Letter Carriers Building, Kansas City
- Apple Market (former), Kansas City
- Yorkshire Cleaners - Telegraph Rd., St. Louis
- P Grgurich Parcel, Building 3E17-A, Milan
- B Campbel Parcel Residence Building 1W07-A, Milan
- B Jensen Building 1W02-B, Milan
- L Stewart Parcel Building 1W12-A, Milan
- C Kain Parcel Buildings 2E02-A and B, Milan
- D Smith-Elder Parcel Building 3E02-A, Milan
- J Harrelson Parcel Building 3E03-A and B, Milan
- E J Smith Parcel Building 3E16-A, Milan

Sites Closed: 7

January

- Enos Green Property, Festus
- Citadel Plaza, Kansas City
- American TV & Appliance (former), Bridgeton

February

- Drycon Plastics (former), St. Louis
- Market Street Office Building, St. Louis
- Canadian Pacific - Excelsior Springs Yard, Excelsior Springs

March

- United States Gypsum North Kansas City Plant, North Kansas City

Drycleaning Environmental Response Trust Fund

The Department of Natural Resources’ Drycleaning Environmental Response Trust (DERT) Fund provides funding for the investigation, assessment and cleanup of releases of chlorinated solvents from drycleaning facilities. The two main sources of revenue for the fund are the drycleaning facility annual registration surcharge and the quarterly solvent surcharge.

Registrations

The registration surcharges are due by April 1 of each calendar year for solvent used during the previous calendar year. The solvent surcharges are due 30 days after each quarterly reporting period.

Calendar Year 2015	Active Drycleaning Facilities	Facilities Paid	Facilities in Compliance
January - March 2015	136	59	48.38%

Calendar Year 2015	Active Solvent Suppliers	Suppliers Paid	Suppliers in Compliance
January - March 2015	11	8	72.73%

Cleanup Oversight

Calendar Year 2015	Active Sites	Completed Sites	Total
January - March 2015	20	15	35

New Sites Received: 0

Sites Closed: 0

Reimbursement Claims

The applicant may submit a reimbursement claim after all work approved in the work plan is complete and the DERT Fund project manager has reviewed and approved the final completion report for that work. The DERT Fund applicant is liable for the first \$25,000 of corrective action costs incurred.

Month	Received	Under Review	Paid/Processed
January	0	0	0
February	0	0	0
March	0	0	0

Month	Received	Under Review	Paid/Processed
January	\$0.00	\$0.00	\$0.00
February	\$0.00	\$0.00	\$0.00
March	\$0.00	\$0.00	\$0.00

Total reimbursements as of March 31, 2015: \$2,665,906.80

DERT Fund Balance as of March 31, 2015: \$415,037.22

Project Prioritization, Planning, Tracking and Reporting

The U.S. Environmental Protection Agency (EPA) and the Department of Natural Resources share responsibility for protecting human health and the environment in Missouri. The Permits Section works with more than 100 facilities that currently treat, store, dispose or recycle hazardous waste in Missouri, or did so in the past. This includes issuing resource recovery certifications to companies that recycle hazardous waste and issuing hazardous waste permits to companies that must get a permit to treat, store or dispose of hazardous waste.

It is the section's responsibility to review hazardous waste permit and resource recovery certification applications, review and provide technical comments regarding the facilities' design and operating plans for sound engineering practices, issue or deny hazardous waste permits and resource recovery certificates, and oversee construction, operation, monitoring and clean-up of these facilities from the time they are permitted/certified until they close.

The Permits Section also reviews and approves facility closure plans, which outline when and how the facility owners and operators will remove and clean their equipment, structures and any releases to the environment when they decide to no longer conduct permitted hazardous waste management activities. The section also reviews and approves post-closure care plans for facilities that close hazardous waste management units, such as in landfills or surface impoundments, with hazardous waste or hazardous constituents remaining in place at levels that require ongoing care and agency oversight. These post-closure care plans detail how facility owners and operators will monitor and maintain those areas to prevent the spread of contamination and ensure that unacceptable human and environmental exposure do not occur in the future.

Companies that are permitted to treat, store or dispose of hazardous waste or that previously operated according to interim status standards, whether currently operating or not, are required to investigate and clean up releases of hazardous waste and hazardous constituents to the environment at their facility. These activities, known as corrective action, cover all releases of hazardous waste and hazardous constituent to the environment, regardless of when the release occurred. It is the Permits Section's responsibility to review facility investigation, monitoring and cleanup work plans and reports to make sure they follow applicable laws, technical standards and generally follow applicable technical guidance.

At any given time, Missouri has facilities in various phases of operation, closure, post-closure or corrective action. These facilities can range in size from one to several thousand acres. Some facilities have widespread contamination problems that will take decades to address, while others have relatively minor contamination or none at all. Given this diversity, and the need for routine reporting of project status and progress to department management and EPA, prioritization and tracking of facility activities and accomplishments on several levels is imperative.

Prioritizing

The Permits Section works closely with EPA to prioritize activities at facilities that have pressing operational needs and those facilities that pose the worst actual or potential threats to human health or the environment. The section coordinates, both internally and with EPA, on the priority of individual projects and tasks at hazardous waste facilities subject to our section's oversight. In the early 1990s, EPA developed the National Corrective Action Prioritization System, or NCAPS, to prioritize hazardous waste facilities that must perform corrective action. This ranking system provided a nationally consistent approach to assessing site factors, leading to ranking facilities as low, medium or high priority. Ranking

elements included things such as the types and volumes of wastes present, contamination release pathways and potential exposures to contamination by humans and the environment. While the NCAPS system is no longer in current use, previous rankings under this system identified the high priority facilities where we direct most of our corrective action resources today. Though no longer driven by the NCAPS, prioritization of facility activities continues to evolve based on new information and facility/departmental needs.

Planning

Since 1995, EPA and states have implemented the National Environmental Performance Partnership System, or NEPPS. NEPPS is a performance-based system designed to improve the efficiency and effectiveness of state-EPA partnerships. Within this framework, EPA and the Permits Section work together to plan activities at all types of regulated facilities regardless of priority ranking. This serves to focus resources on the most pressing environmental problems and take advantage of each other's abilities. Every year the department and EPA Region 7 negotiate a Performance Partnership Grant (PPG) Work Plan, which provides the framework for EPA grant-driven regulatory activities to be performed by the department's air, water and hazardous waste programs during the years covered by the PPG Work Plan. This document lists overarching goals for the Permits Section, the majority of which relate to the EPA's national goals established pursuant to the federal Government Performance and Results Act.

Facility-specific current and future goals for the Permits Section and our EPA counterparts are negotiated on a yearly basis and listed in a related document called the Multi-Year Facility Planning Strategy, or MYFPS. The MYFPS document identifies and prioritizes major tasks associated with individual projects relating to permits, permit modifications, orders or expedited agreements, corrective action activities, closure/post-closure activities, groundwater monitoring system evaluations and other related regulatory activities. The Permits Section works closely with EPA Region 7 on an ongoing basis to track progress against established goals and make revisions to the MYFPS document based on the facility's priority ranking, project element status and other appropriate criteria.

The MYFPS is a "living" document that includes goals we believe to be achievable if all Permits Section staff positions are filled and all projects go relatively smoothly. Projected tasks and completion dates are routinely revisited and updated for a variety of reasons, such as staff turnover and resources, facility bankruptcy, permit appeals, corrective action dispute resolution, investigation findings leading to additional work, public comments and intervening short-term priorities. The MYFPS document does not capture the many "unplanned" grant-related activities that come about during the year, including facility-proposed permit modifications, incremental/phased work done in support of existing MYFPS goals, facility-proposed interim measures, newly-identified Solid Waste Management Unit and Area of Concern investigations, and ongoing involvement in national permitting/corrective action initiatives. The MYFPS document also does not capture non-grant-related activities such as state resource recovery certification and modification activities.

Tracking

Project progress and completion of short- and long-term goals at hazardous waste facilities overseen by the Permits Section are tracked, both internally and externally. Internal tracking is done through the department's Permit Action Management System, or PAMS, and section-specific Master Task List databases. PAMS is maintained by the department's Division of Environmental Quality (DEQ) and used to track various types of permit-related activities across several DEQ programs, including air pollution, water protection, solid waste, drinking water and hazardous waste. The Permits Section uses PAMS to track all major activities and milestones relating to permits, permit modifications, corrective action, closure/post-closure, groundwater monitoring, financial assurance, appeals and other regulatory activities

External tracking is done through the EPA's RCRA Information database, better known as RCRAInfo. The Permits Section's commitment to perform tracking through this database is included in the PPG Work Plan mentioned above. This database is maintained by the EPA and the states and includes detailed facility-specific information for hazardous waste generators, transporters and treatment, storage and disposal facilities. RCRAInfo contains facility identification and location data and information on hazardous waste activities including permitting, closure/post-closure, corrective action, compliance with federal and state regulations, program management and reporting. For all state- and joint-lead activities, the Permits Section is responsible for entering data related to permitting, corrective action, financial assurance, inspection, some enforcement-related events, institutional control and geographic information system, or GIS, information. As new entries are made, the section performs ongoing data quality checks for historical state and EPA data. The section corrects errors for state- and joint-lead database entries and forwards potential corrections to the EPA database for reconciliation.

Reporting

In 1993, the federal government passed the Government Performance and Results Act, or GPRA, which is one of a series of laws designed to improve program management throughout the federal government. This law holds federal agencies accountable for using resources wisely and achieving program results. GPRA requires federal agencies to set yearly goals for what they intend to accomplish, measure their results, and report their success or failure in meeting those goals to Congress at the end of that year.

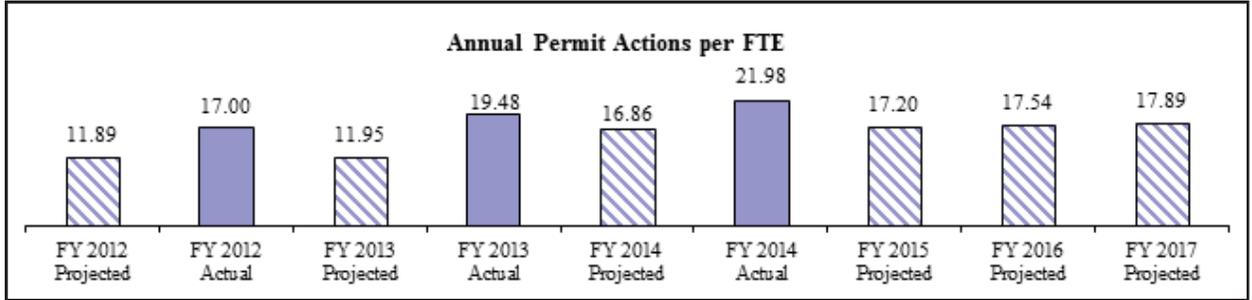
In 2010, the federal government passed the GPRA Modernization Act, which is essentially an amendment to GPRA. The GPRA Modernization Act requires more frequent reporting and reviews (quarterly instead of annually) that are intended to increase the use of performance information in program decision-making. The EPA relies almost exclusively on the information entered into RCRAInfo to assess project progress and achievement of regional and national GPRA goals.

EPA-authorized states, such as Missouri, are also held accountable for using resources wisely and achieving program results. At the end of each federal fiscal year, the Permits Section prepares a report for the EPA, documenting progress on all PPG Work Plan and MYFPS goals during that fiscal year. The report focuses mainly on permitting, corrective action and groundwater inspection and evaluation activities and includes reporting on all planned and unplanned activities. MYFPS project elements are reported as complete or incomplete. The reports contain a summary of all MYFPS goals, an explanation of any completion delays, new projected completion dates for any incomplete goals and a summary of additional unplanned/non-MYFPS accomplishments. Completed activities that were not specified in the MYFPS are summarized and reported as additional accomplishments. Some of these additional accomplishments constitute grant-related work that can be substituted in satisfaction of federal grant requirements for equivalent grant-related work that could not be completed as planned.

All in all, the Permits Section conducts many project prioritizations, planning and reporting activities on an ongoing basis. This requires substantial resources and is an essential part of the section's work, since tasks are not considered completed and goals met until project-related information is updated in the appropriate databases.

Missouri Department of Natural Resources - Hazardous Waste Program

PERMITS



	FY 2012 Projected	FY 2012 Actual	FY 2013 Projected	FY 2013 Actual	FY 2014 Projected	FY 2014 Actual	FY 2015 Projected	FY 2016 Projected	FY 2017 Projected
Action/FTE	11.89	17.00	11.95	19.48	16.86	21.98	17.20	17.54	17.89
PAMS Actions		363		415		440			
# Calculated Section FTE		21.4		21.3		20.02			
# of Sites with Permit Actions in PAMS		80		85		70			

Source: Permit Action Management System (PAMS) based on records with a start date or a completion date during the fiscal year or a start date prior to the fiscal year but no completion date. PAMS is updated as information is received. This may retroactively affect the numbers from previous years. FTE based on information pulled from SAM II HR Database. 1 FTE = 2080 hours. Contact Theresa Doggett, HWP Permits Section.

Regional Office Hazardous Waste Compliance Efforts

- Conducted 90 hazardous waste generator compliance inspections:
 - 16 at large quantity generators.
 - 25 at small quantity generators.
 - 40 at conditionally exempt small quantity generators.
 - 7 at E-waste recycling facilities.
 - 2 at resource recovery facilities.
- Conducted four compliance assistance visits at hazardous waste generators.
- Conducted one targeted re-inspection at hazardous waste generators.
- Issued 26 letters of warning and eight notices of violation requiring actions to correct violations cited during the 95 inspections conducted.
- Received and investigated a total of 28 citizen concerns regarding hazardous waste generators.

Underground Storage Tank (UST) Compliance and Technology Unit (CTU)

Tank inspection contract – The request for proposal for the new tank inspection contract closed with the submittal(s) currently under review. The inspection contractor conducts inspections of active underground and aboveground storage tanks for the Missouri Department of Natural Resources and the Missouri Petroleum Storage Tank Insurance Fund. Contact the Missouri Office of Administration for details.

Operator training – Operator training is now available online. Class A/B operator training and Class C operator training are both available, as well as a “test only” option. The draft rule is also available online, which includes a compliance deadline of July 1, 2016. The department and the fund will also be accepting reciprocity from some of our neighboring states. Stay tuned! The training program and draft rule may be found on the fund’s webpage: <http://optraining.pstif.org/intro/>

Federal Rule changes – In 2011, EPA proposed significant changes to the UST regulations. The final version of those rules is expected to be announced shortly. The proposed rule includes new testing requirements for release detection equipment, overfill prevention equipment (e.g. flapper valves, ball float valves and alarms), spill buckets, and containment sumps. Under the proposed changes, previously deferred airport fuel hydrant systems, field constructed tanks, and even some oil water separators will now be regulated. Missouri must also include a new requirement for all new systems installed after July 1, 2017, to be double walled with enhanced leak monitoring. For updates and information on these upcoming rule changes, please visit our webpage: <http://dnr.mo.gov/env/hwp/ustchanges.htm>

Tank Inspections – State Fiscal Year 2015 contract inspections are complete. Department inspections continue. And as we have seen in previous years, Missouri owners, operators and contractors continue to demonstrate their proactive compliance by being responsive to issues when found, demonstrating a willingness to be a partner in ensuring all Missouri USTs are in compliance. The department is maintaining compliance with the EPA requirement of inspecting all regulated facilities at least every three years, and must also demonstrate that all facilities are either in compliance or are moving to gain compliance. This goal is much easier to accomplish when owners, operators, contractors and regulators are all working together.

Financial Responsibility – Efforts continue to resolve violations with facilities that did not maintain a financial responsibility (FR) mechanism to address releases and to protect third parties. Because of these efforts by UST CTU staff and the Attorney General’s Office, the number of facilities without a verified FR mechanism continues to remain at less than 1.5 percent.

Special Facilities Unit

Commercial Facility Inspectors – Special facilities inspectors conducted eight inspections of commercial hazardous waste treatment/storage/disposal facilities (TSDs).

Polychlorinated Biphenyl (PCB) Inspector – The inspector conducted eight compliance inspections at various types of facilities throughout the state. The inspector's reports are forwarded to the U.S. EPA Region 7, which has authority for taking any necessary enforcement action regarding PCBs according to the Toxic Substances Control Act.

Hazardous Waste Transporters – A new inspector was hired and he attended the required six weeks of training during January and February.

Hazardous Waste Enforcement Unit

Enforcement Efforts

- Resolved 20 hazardous waste enforcement cases.
 - *Twelve fees and taxes fees cases.*
 - *Three small quantity generator (SQG) cases.*
 - *Three conditionally exempt small quantity generator (CESQG) cases.*
 - *Two inactive hazardous waste generator cases.*
- Received 13 new enforcement cases.
- Sent four penalty negotiation offer letter.
- Issued one letter of warning.
- Issued two notices of violation.
- Completed five settlement agreements.
- Completed three administrative orders on consent.
- Completed two consent judgement/consent agreements.
- Completed one administrative penalty order.

Remington Arms Company (AOC)

On Sept. 21, 2012, the Kansas City Regional Office inspected the Remington Arms Company facility. A notice of violation was issued on Oct. 18, 2012, for failure to determine if waste was hazardous, acting as an unpermitted TSD, numerous storage violations, and parts of their contingency plan were lacking. The department conducted a follow-up inspection on Feb. 7, 2013, which confirmed that Remington had corrected all noted violations.

An initial administrative penalty of \$14,000 was calculated and Remington agreed to pay \$5,000 cash in upfront and to suspend \$9,000 for two years provided there are no hazardous waste violations or violations of the order. The administrative order on consent was finalized on Feb. 17, 2015.

Schaefer Autobody Center (AOC)

The St. Louis Regional Office conducted compliance evaluation inspections on May 5, 2011, and Nov. 30, 2011, at Schaefer Autobody. On Feb. 15, 2012, the department issued an NOV for failure to determine if a waste is hazardous; use a licensed hazardous waste transporter; use authorized TSD facilities; and

meet container requirements, storage requirements, and numerous emergency contingency requirements. A subsequent inspection was conducted on May 23, 2012. On Aug. 14, 2012, Schaefer Autobody had demonstrated correction of all noted violations.

On March 15, 2015, Schaefer Autobody and the department entered into an administrative order on Consent with a \$3,800 penalty paid to the St. Louis County School Fund and \$3,800 suspended for two years provided there are no hazardous waste violations or other violations as specified in the order.

Tyson Foods Inc. (CJ)

On June 5, 2014, the Southwest Regional Office conducted an inspection at the Tyson facility located in Aurora and Monett. The inspection was the result of a concern of fish kills downstream of the City of Monett water treatment facility. During the investigation it was determined that the Tyson facility in Aurora had a release of hazardous waste and had transported that waste to the Tyson waste water treatment facility in Monett for disposal, which was subsequently released to the City of Monett waste water treatment facility. The release caused significant damage to surface water, aquatic life and other natural resources.

As a result of the inspection, a notice of violation (NOV) was issued to the Tyson facility in Aurora for failure to determine if a waste is hazardous; use a licensed hazardous waste transporter; use the manifest system; use an authorized TSD facility; update notification; and operate and maintain the facility to minimize the possibility of an emergency. Additionally, the Tyson facility in Monett was issued an NOV for acting as an unpermitted TSD facility.

The department and Tyson entered into a multimedia consent judgement on January 22, 2015. Tyson agreed to a civil penalty of \$110,000, to pay \$162,898.78 in natural resources damages, and to pay \$47,101.22 in cost recovery. Tyson also agreed to complete a Missouri Supplemental Environmental Performance Project to replace a low water crossing to improve and allow an all-weather crossing over the affected waterway while facilitating fish passage and sediment transport.

Pesticide Collection Event January-March 2015 Quarterly Report Summary

The Pesticide Collection Program has scheduled five pesticide collection events for calendar year 2015. One collection event will take place in every region of the state:

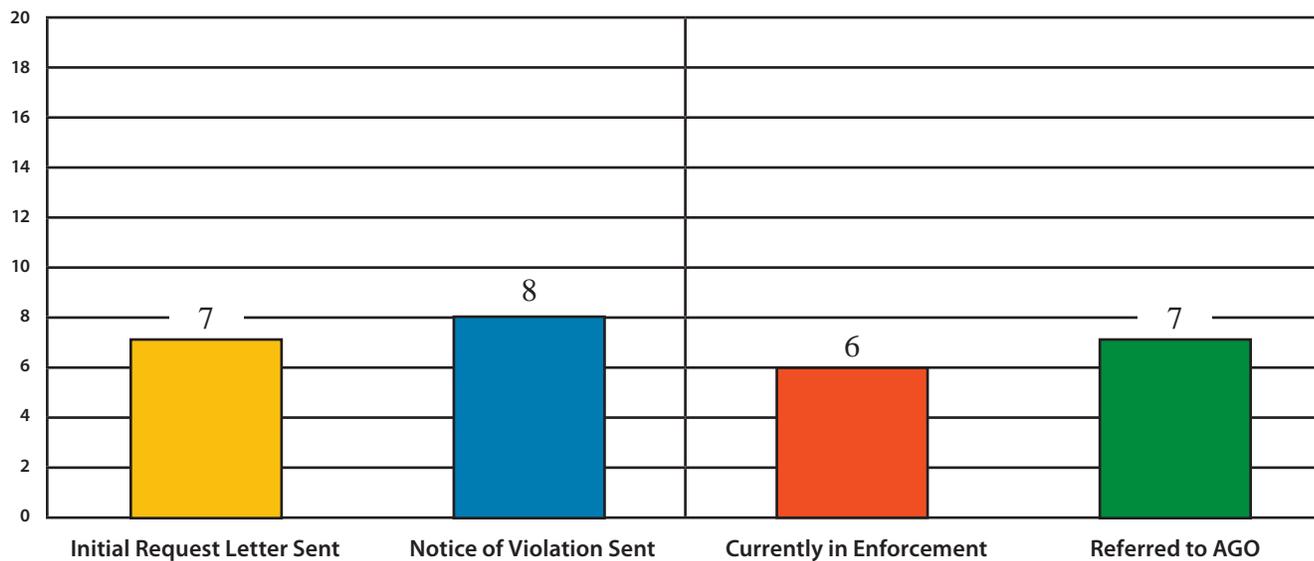
- Portageville: May 30, at the University of Missouri Fisher Delta Research Center, 147 West State Highway T, Portageville.
- Mt. Vernon: June 20, at the University of Missouri Southwest Research Center, 14548 Highway H, Mount Vernon.
- Higginsville: July 18, at the Lafayette County Road and Bridge Facility, 19717 Outer Road, Higginsville.
- Owensville: Aug. 15, at the Owensville Police Department, 109 N. Second St., Owensville.
- Kirksville: Sept. 19, at the Charles Krueger Public Works Complex, 2001 North Osteopathy, Kirksville.

Additionally, a request for proposal (RFP) for pesticide collection services has been issued and proposals were due on April 20, 2015. The RFP is exclusively for services required for pesticide collections and addresses all collection events held in 2015 and beyond. Having a contract in place specifically for these services will simplify the process and reduce staff time and effort needed during set up and follow through after each event and ensure consistency and high quality of services from our contractors during these events. We have also continued to expand our education and outreach efforts by working on website and fact sheet updates, updating pesticide collection program standard operating procedures and planning for outreach opportunities such as the Cole County Fair and Missouri State Fair.

Underground Storage Tank Facilities with Unknown Financial Responsibility Status Report

Financial Responsibility Status	Number of Facilities
Initial Request Letter Sent	7
Notice of Violation Sent	8
Currently in Enforcement	6
Referred to Attorney General's Office	7
Total Number of Facilities with Unknown Financial Responsibility	28

Number of Facilities in Each Financial Responsibility Step



*This semi-monthly report is derived directly from a copy of the UST Database and provides a “snapshot” of the status for each active underground storage tank facility not covered by a proper Financial Responsibility Mechanism.

DNR Attends the Annual Petroleum and Convenience Store Association Exposition

Staff from the Hazardous Waste Program, Tanks Section, recently attended the Petroleum & Convenience-Store Exposition of Mid-America (PACE) that was held at the Kansas City Convention Center, Bartle Hall on Feb. 27-28, 2015. PACE is the premier Midwest tradeshow with more than 4,000 attendees from the four-state area of Missouri, Kansas, Iowa and Nebraska. This regional tradeshow attracts many key industry leaders. This show features the latest in petroleum and convenience store products, tank system equipment, hardware, soft goods, technology, and the hottest new trends and services.

Staff had a chance to meet and inform members of the industry in an informal setting. Materials displayed included the Missouri Resources magazine, a variety of the department technical bulletins on underground storage tank management, and other underground storage tank publications. Many questions were answered, policies discussed, and even a few compliments were received.

Staffing the booth from the Hazardous Waste Program were Chris Veit, Closure, Release and Investigations Unit, and Heather Peters, Compliance and Enforcement Section Petroleum Storage Tank Enforcement Unit. Several members of the Tanks, and Compliance and Enforcement sections attended the exposition.

Tanks Section Planning Workshop at the Missouri Waste Coalition Conference

The Hazardous Waste Program's Tanks Section is coordinating with the Missouri Waste Control Coalition to plan the 2015 Missouri Waste Control Coalition Conference (MWCC) at the Tan-Tar-A Resort at the Lake of the Ozarks on July 12-14. The Tanks Section will also be holding a tanks workshop as part of the conference. This will be the seventh annual workshop in conjunction with the MWCC events. This workshop is targeted toward environmental consultants who provide services to tank owners and operators. The workshop will provide consultants with information and training regarding free product recovery, proposed federal rulemaking on underground storage tanks, groundwater pathway issues, and other remediation topics.

The workshop will include departmental staff, along with private consultants, private laboratories and others. The Environmental Protection Agency may also participate in the conference as an exhibitor and in a support role.

Missouri Department of Natural Resources - Hazardous Waste Program

Petroleum Storage Tanks Regulation June 2015

Staff Productivity	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	TOTAL
Documents received for review	161	189	222	208	163	166	176	189	183	0	0	0	1,657
Remediation documents processed	140	123	146	171	166	115	111	126	138	0	0	0	1,236
Closure reports processed	9	10	14	24	8	13	13	4	10	0	0	0	105
Closure notices approved	9	9	10	10	8	5	7	13	12	0	0	0	83
Tank installation notices received	7	5	5	5	4	3	7	4	9	0	0	0	49
New site registrations	4	7	2	4	5	1	1	2	0	0	0	0	26
Facility Data	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	TOTAL
Total in use, out of use and closed USTs	40,756	40,773	40,789	40,807	40,827	40,839	40,848	40,859	40,869	0	0	0	
Total permanently closed USTs	31,676	31,703	31,777	31,806	31,819	31,837	31,857	31,873	31,890	0	0	0	
In use and out of use USTs	9,080	9,070	9,012	9,001	9,008	9,000	8,989	8,984	8,976	0	0	0	
Out of use USTs	739	746	709	702	693	701	696	691	695	0	0	0	
Total hazardous substance USTs	404	404	404	404	404	404	404	405	405	0	0	0	
Facilities with in use and out of use USTs	3,483	3,482	3,461	3,456	3,458	3,455	3,456	3,454	3,455	0	0	0	
Facilities with one or more tank in use	3,229	3,226	3,220	3,218	3,222	3,216	3,217	3,216	3,214	0	0	0	

Closures

Underground Storage Tanks	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	TOTAL	All Yrs
Closure Reports Reviewed	9	10	14	24	8	13	13	4	10	0	0	0	105	
Closure Notices Approved	9	9	10	10	8	5	7	13	12	0	0	0	83	
Number of Tanks Closed (Closure NFA)	14	17	43	46	22	18	16	12	33	0	0	0	221	

Cleanup

Underground Storage Tanks													TOTAL	All Yrs
UST release files opened this month	4	7	10	14	7	9	7	5	7	0	0	0	70	6,672
UST cleanups completed this month	8	6	15	7	11	10	2	10	15	0	0	0	84	5,819
Ongoing UST cleanups	865	866	863	869	864	863	866	858	849	0	0	0		
Aboveground Storage Tanks														
AST release files opened this month	1	0	0	2	5	1	0	0	0	0	0	0	9	475
AST cleanups completed this month	2	1	0	2	0	1	0	1	0	0	0	0	7	293
Ongoing AST cleanups	182	181	180	179	183	183	183	182	182	0	0	0		
Both UST and AST														
Total release files-both UST & AST	0	0	0	0	0	0	0	0	0	0	0	0	0	78
Cleanups completed-both UST & AST	0	0	1	1	0	0	0	0	0	0	0	0	2	51
Ongoing cleanups-both UST & AST	29	29	29	28	28	27	27	27	27	0	0	0		
Unknown Source														
Total release files-unknown source	0	1	0	0	0	0	0	0	0	0	0	0	1	227
Cleanups completed-unknown source	0	0	1	0	0	0	0	1	0	0	0	0	2	184
Ongoing cleanups-unknown source	20	21	19	19	20	19	19	19	18	0	0	0		
Documents Processed	140	123	146	171	166	115	111	126	138	0	0	0	1,236	
*Reopened Remediation Cases	0	1	0	0	0	0	0	0	0	0	0	0	1	79

* Reopened Remediation Cases was added Nov. 18, 2009 - the cumulative total has been queried and a running total will be tracked/reported with the FY 2010 Tanks Section Monthly Reports.

Effective December 2008 tanks with unknown substance will be included in total figures. Some measures are re-calculated each month for all previous months to reflect items added or edited after the end of the previous reporting period.

Missouri Hazardous Waste Management Commission Meeting

**August 20, 2015
Agenda Item # 10**

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

**August 20, 2015
Agenda Item # 11**

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

**August 20, 2015
Agenda Item # 12**

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

**August 20, 2015
Agenda Item # 13**

Future Meetings

Information:

Meeting Dates:

Date	Time	Location
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
Thursday, August 18, 2016	9:45 A.M.	Bennett Spring / Roaring River Room 1730 East Elm Jefferson City, Missouri 65101

Recommended Action:

Information Only