

1 BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES
 HAZARDOUS WASTE MANAGEMENT COMMISSION

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 Two Proposed Amendments to 10 CSR 26 -
4 Underground Storage Tank Rulemaking

5

 Public Hearing
6 November 3, 2016
 9:30 a.m.
7 1730 East Elm Street
 Jefferson City, Missouri 65101

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10 BEFORE (TELEPHONICALLY):

11 Commission Chair - Elizabeth Aull
 Commission Vice-Chair - James (Jamie) Frakes
12 Commissioner Mark Jordan
 Commissioner Michael Foresman

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20 Reported by:
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1 (Start time: 9:30 a.m.)

2 P R O C E E D I N G S

3 COMMISSION CHAIR AULL: I'm going to call the
4 meeting to order.

5 And, Madam Secretary, will you please call
6 the role.

7 MS. DOBSON: Chairman Aull.

8 COMMISSION CHAIR AULL: Present.

9 MS. DOBSON: Present by phone.

10 Vice-Chairman Frakes.

11 VICE-CHAIR FRAKES: Present.

12 MS. DOBSON: Present by phone.

13 Commissioner Adams.

14 Commissioner Adams.

15 Absent at this time.

16 Commissioner Foresman.

17 COMMISSIONER FORESMAN: Present.

18 MS. DOBSON: Present by phone.

19 Commissioner Jordan.

20 COMMISSIONER JORDAN: Present.

21 MS. DOBSON: Present by phone.

22 COMMISSION CHAIR AULL: Thanks.

23 I will now ask Mr. Sturgess to lead the group
24 in the Pledge of Allegiance, please.

25 MR. STURGESS: Would you please stand.

1 (PLEDGE OF ALLEGIANCE.)

2 COMMISSION CHAIR AULL: Thank you all.

3 Now on to the meeting.

4 I hereby call this public meeting to order.

5 A public hearing is not typically a forum for debate of
6 the issues. Rather, the purpose of this hearing is to
7 provide the Department of Natural Resources and the
8 public an opportunity to present testimony on the
9 proposed changes to Chapter 2 of Title 10, Division 26
10 of the Code of State Regulations.

11 At the request of the Commission the
12 Department will first present testimony on the proposed
13 amendments and new rules. Following their testimony the
14 public will be given the opportunity to comment on the
15 proposed rulemaking.

16 A sign-up sheet is provided at the back of
17 the room for anyone in attendance at the hearing, in
18 addition to comment forms, for those who wish to make
19 any oral comments. Please fill out a comment form if
20 you wish to be heard. This will aid us in recognizing
21 speakers and calling them to testify.

22 Additionally, we ask anyone who approaches
23 the Commission to testify to please state their name and
24 affiliation, if any, for the record and provide a
25 business card if available to the court reporter and to

1 the Commission secretary.

2 Written comments will also be accepted at
3 this hearing. Please provide them to the Hazardous
4 Waste Program's Director, Steve Sturgess.

5 Following the conclusion of the hearing
6 comments may be submitted by mail to the Director of the
7 Hazardous Waste Program, Post Office Box 176,
8 Jefferson City, Missouri 65102.

9 Comments submitted by mail must be
10 post-marked on or before the end of the public comment
11 period, on November the 10th, 2016.

12 E-mail comments shall be sent to Heather
13 Peters and her e-mail address, which is Heather,
14 H-e-a-t-h-e-r, dot Peters, P-e-t-e-r-s, at DNR, dot MO,
15 dot gov, and must also be received no later than
16 November the 10th, 2016.

17 Okay. The Chair calls Heather Peters.

18 MS. PETERS: Thank you.

19 Hopefully today's testimony will be pretty
20 brief. I will for the record cover a few of the things
21 we covered with the last hearing though as well.

22 Today we are discussing some changes to the
23 underground storage tank rules. The primary reason for
24 these is to satisfy some EPA requirements.

25 Back in 2005 the Energy Policy Act went into

1 effect, and part of that included underground storage
2 tank regulations or requirements for regulation changes.

3 EPA promulgated the Federal Rules in July of
4 2015, and they became effective in October of last year.

5 In addition we have State program approval
6 from EPA which gives Missouri the authority to run
7 Missouri's program. That State program approval is
8 conditional, though, upon us actually implementing the
9 new Federal requirements. And we do have a deadline
10 that we have to meet, by October 13th of 2018, to submit
11 our State program approval, and that renewal must
12 include these new updated EPA requirements.

13 So briefly I will mention that on
14 September 15th, 2016 in the Missouri Register we
15 published all of the underground storage tank rule
16 changes.

17 Twenty-three of those have already had a
18 hearing. That was held on October 20th. And the
19 comment period for those is now closed.

20 Today's hearing, though, what we are
21 discussing is specifically two rules. There was a typo
22 in the September 15th, 2016 register, so there was a
23 correction, and it was reprinted for just these two
24 rules on October 3rd of 2016.

25 The content of the rules didn't change. The

1 typo was actually in the announcement of the date and
2 time of this hearing. The comment period for these two
3 rules close on November 10th.

4 And the two rules that we are discussing
5 today are the two release detection rules associated
6 with field-constructed tanks and airport hydrant fuel
7 distribution systems.

8 I will briefly mention that in the
9 10 CSR 26-2.013, that was the initial proposed rule that
10 covered the new requirements for these systems.

11 Now, that rule is closed for comment at this
12 time. It did close on October 27th. But the reason I
13 point this out is because one of the issues in here that
14 these sites will have to comply with are the release
15 detection requirements.

16 According to that proposed rule they would
17 have to comply with the release detection requirements
18 no later than July 1st of 2020.

19 Again, this rule is closed for comments, but
20 the reason I pointed this out is that two rules that we
21 are discussing today tie specifically to this
22 requirement.

23 So the two rules that we're discussing are
24 10 CSR 26-2.046 and 2.047. It is the release detection
25 method for tanks and the release detection for piping

1 associated with the field-constructed tanks and the
2 airport hydrant fuel distribution systems.

3 These two rules are directly transferred from
4 the EPA rules. We did not make any State specific
5 changes in either one of these rules.

6 The first rule covers how to monitor these
7 tanks for release detection. Field-constructed tanks,
8 as you might imagine, are often either concrete tanks or
9 they are very large steel-erected tanks, part of which
10 can often be aboveground.

11 Because of that they don't really fall into
12 the normal tank release detection methods that we have
13 in underground storage tanks. They are much larger and
14 they have a much wider variability based on temperature
15 and volume.

16 So because of that EPA promulgated rules that
17 allowed different leak rates for tank monitoring for
18 these tank systems.

19 They can do a monthly monitoring at one
20 gallon per hour, plus a regular routine tightness test,
21 or they can do monthly monitoring at two gallons per
22 hour, with a tightness test every two years.

23 Now, for a frame of reference, underground
24 storage tanks at convenience stores and other regular
25 underground storage tanks have to monitor at .2 gallons

1 per hourly monthly. So this is a pretty significant
2 difference for these tanks.

3 In addition, the sites often have very large
4 volume or large piping systems. As you might imagine in
5 an airport hydrant system, the piping will go all of the
6 way from the underground storage tanks out to each and
7 every single one of your gates. So that can be 40, 50,
8 60 sites and thousands and thousands of gallons of fuel
9 in the piping.

10 Again, it's not really comparable to an
11 underground storage tank that will only have a few feet
12 of piping.

13 So because of that EPA did establish
14 different leak rates for these piping, and the leak rate
15 is segmented based on the volume of line -- or volume of
16 fuel in the piping at the time of the test.

17 And so what you'll find in that rule is
18 different segments and what those leak thresholds are.

19 So what we have before us then are these two
20 rules. As I stated earlier, we have 23 other
21 underground storage tank rules in this chapter that have
22 just recently closed for comment. This rule will close
23 for comment on November 10th.

24 Our anticipation is to bring all of these
25 rules, though, all 25, back together again to the

1 Commission meeting on December 15th of 2016. That would
2 be when we would be asking for the final adoption of the
3 rules, and that would cover all 25, both the original 23
4 and these two rules.

5 Before you on the slide is the schedule of
6 how those would proceed after that, with December 23rd
7 being the date we would have to get the orders of
8 rulemaking to the Joint Commission on Administrative
9 Rules, and if all would go well on that, then
10 January 25th of 2017 would be when we file with the
11 Secretary of State and we'd start moving to actually
12 promulgate these rules.

13 Like I said, I was going to keep it short and
14 sweet, so if we have any other clarifications that we
15 need, please don't hesitate to mention those now, but
16 that is all that we have at this time.

17 COMMISSION CHAIR AULL: Thank you.

18 COMMISSION VICE-CHAIR FRAKES: Okay. Madam
19 Chair, a real quick question again.

20 I heard her mention (inaudible) --

21 THE COURT REPORTER: I'm sorry. I'm not
22 getting this.

23 MS. DOBSON: Jamie, you're really broken up.

24 COMMISSION CHAIR AULL: You broke up, Jamie.
25 Are you asking --

1 COMMISSION VICE-CHAIR FRAKES: Okay.

2 COMMISSION CHAIR AULL: -- are we going to be
3 on --

4 COMMISSION VICE-CHAIR FRAKES: Yeah.

5 (Inaudible.)

6 Ms. PETERS: If the question is about the
7 schedule, all of these rules would go before the
8 Commission at the December 15th meeting for a vote from
9 the --

10 COMMISSION VICE-CHAIR FRAKES: Right.

11 MS. PETERS: -- Commission whether or not
12 we're going to do the final adoption of those rules. So
13 that would be the next Commission action. And that
14 would cover these two rules, as well as the 23 that we
15 covered on October 20th.

16 COMMISSION VICE-CHAIR FRAKES: Okay. Yeah,
17 that's in essence what I was asking, yes.

18 Thank you.

19 COMMISSION CHAIR AULL: Thank you,
20 Commissioner Frakes.

21 Are there any other questions for Ms. Peters?

22 No questions. Then are there any comments
23 from the public, Mr. Sturgess?

24 MR. STURGESS: I have received none.

25 COMMISSION CHAIR AULL: None?

1 MR. STURGESS: None.

2 COMMISSION CHAIR AULL: Okay.

3 Excuse me?

4 MR. STURGESS: No comments.

5 COMMISSION CHAIR AULL: Okay. Thank you.

6 That's what I thought you said.

7 All right. Then do I have a motion to close
8 the hearing, please?

9 UNIDENTIFIED SPEAKER: So moved.

10 COMMISSION CHAIR AULL: A second.

11 MR. STURGESS: Who made the motion?

12 COMMISSION VICE-CHAIR FRAKES: Was it
13 Commissioner Foresman?

14 COMMISSIONER FORESMAN: Yes.

15 COMMISSION VICE-CHAIR FRAKES: And I'm
16 Commissioner Frakes. I second it.

17 COMMISSION CHAIR AULL: Okay. Thank you.

18 Call the question. All in favor.

19 (Unanimous aye.)

20 COMMISSION CHAIR AULL: Any opposed?

21 (No response.)

22 COMMISSION CHAIR AULL: So be, the meeting is
23 now concluded, and are there -- for the hearing rather.

24 Are there any other items we need to address,
25 Mr. Sturgess?

1 MR. STURGESS: No, there are not.

2 COMMISSION CHAIR AULL: That being so, do I
3 have a motion to call the meeting to -- excuse me. Do I
4 have a motion to close the meeting, please, adjourn the
5 meeting?

6 UNIDENTIFIED SPEAKER: I'll make a motion to
7 adjourn.

8 MR. STURGESS: Who made the motion?

9 UNIDENTIFIED SPEAKER: I'll second.

10 COMMISSION CHAIR AULL: Thank you.

11 All in favor.

12 (Unanimous aye.)

13 MR. STURGESS: For the record could we know
14 who made the motion and the second?

15 COMMISSION CHAIR AULL: Okay.

16 COMMISSION VICE-CHAIR FRAKES: I made the
17 motion, Commissioner Frakes.

18 COMMISSIONER FORESMAN: Foresman seconded.

19 MR. STURGESS: All right. Thank you.

20 MS. DOBSON: The meeting is closed.

21 WHEREIN, the public hearing concluded at

22 9:42 a.m.

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CERTIFICATE OF REPORTER

I, Patricia A. Stewart, CCR, a Certified Court Reporter in the State of Missouri, do hereby certify that the testimony taken in the foregoing transcript was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this transcript was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Patricia A. Stewart
CCR 401

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