

GENERAL SESSION
HAZARDOUS WASTE MANAGEMENT COMMISSION
December 15, 2016; 10:00 A.M.
1730 E. Elm Street
Bennett Springs/Roaring River Conference Rooms
Jefferson City, MO 65102

(Note: *The minutes taken at Hazardous Waste Management Commission proceedings are just that, minutes, and are not verbatim records of the meeting. Consequently, the minutes are not intended to be and are not a word-for-word transcription.*)

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

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

COMMISSIONERS PRESENT IN PERSON

Chairman Elizabeth Aull
Commissioner Mark Jordan
Commissioner Michael Foresman
Commissioner Charles Adams

COMMISSIONERS PRESENT BY PHONE

Vice-Chairman Jamie Frakes

Chairman Aull called the General Session to order at approximately 10:00 a.m.

A roll call was taken of the Commissioners. Chairman Elizabeth Aull, Commissioner Michael Foresman, Commissioner Charles Adams and Commissioner Mark Jordan were present in person. Vice-Chairman Jamie Frakes was present by phone. A quorum was established.

1. PLEDGE OF ALLEGIANCE

Chairman Aull led the recitation of the Pledge of Allegiance by the Hazardous Waste Management Commission (Commission) and guests.

2. APPROVAL OF MINUTES

- General Session minutes from the Oct. 20, 2016, meeting:

Commissioner Foresman made a motion to approve the Oct. 20, 2016, General Session minutes. Commissioner Adams seconded the motion.

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

- General Session minutes from the Nov. 3, 2016, meeting:

Commissioner Foresman made a motion to approve the Nov. 3, 2016, General Session minutes. Commissioner Jordan seconded the motion.

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

3. CERTIFICATION OF DECISION – PROPOSED AMENDMENTS TO 10CSR26 – UNDERGROUND STORAGE TANK RULES

Ms. Heather Peters, Compliance and Enforcement Section, HWP, addressed the Commission and provided a PowerPoint presentation outlining the basis for the proposed amendments to the Underground Storage Tank rules. She began by noting that the changes to the rules were necessitated under the State Program Approval (SPA) from the Environmental Protection Agency and advised that they were needed for Missouri to run Missouri's program, were needed to keep any state-specific rules or determinations; and, if new rules are not promulgated, the SPA could very likely be in jeopardy. Ms. Peters went on to describe who had provided comments on the rule package and provided a timeline for filing the rule package.

Ms. Peters provided the Commission with an overview of the response to comments document, noting that 106 individual comments (plus MPCA's support of the 87 submitted by PSTIF and four submitted by a large oil company) were received. She went on to state that the Department had provided 148 response to comments (some comments applied to multiple rules) and that six "significant" comments from PSTIF and one significant topic from Lambert-St. Louis International Airport were addressed in the responses. She stated that most other comments were regarding wording, phrasing, semantics and implementation of rules or were outside of the scope of the rules. Ms. Peters advised that approximately 65 changes were made on 17 of the 25 rules and that most of those dealt with language, semantics or rule structure.

Ms. Peters went on to provide the Commission with a comparison of the state and federal definitions for an underground storage tank and advised that there were no implementation changes proposed. She advised that the Department would still regulate some aboveground piping systems (marinas, generators), still regulate releases from aboveground storage tanks, that it would still be the responsibility of the Department of Agriculture to inspect and oversee dispensers, and that it would still be the responsibility of DNR to oversee the cleanup of dispenser releases.

Ms. Peters went through each type of comment and provided individual responses for each issue. She reviewed the Department's position on each issue and described the EPA's requirement for each restriction with regards to our SPA.

Following her presentation Ms. Peters recommended that the Commission adopt all 25 Orders of Rulemaking, including modifications recommended by program staff for the 20 amended rules and the five new rules. She responded to questions posed by the Commissioners.

Commissioner Foresman made a motion to adopt the proposed changes to 10CSR26, with the revisions as presented. Commissioner Adams seconded the motion.

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

4. RULEMAKING UPDATE

Mr. Tim Eiken, Director's Office, HWP, addressed the Commission and noted that most of the rulemaking effort had been focused on the UST rules. He noted that there were a couple of other rules being worked on. He advised that the adoption of federal rules was an ongoing process, the Definition of Solid Waste was still being reviewed, there were changes proposed to the Resource Recovery Program which had mandatory pieces for consideration and that there were pieces still needing to be cleaned up from the recent Hazardous Waste Generator rule package. He noted that this included reorganizing the rules into one area, fixing references and citation and new terminology with regards to Very Small Quantity Generator, Small Quantity Generator and Large Quantity Generator, which would allow for more flexibility.

He went on to state that the next step with the Tank Rules, following the previous vote by the Commission, was to provide them to the Joint Committee on Administrative Rules, a 30 day review and being sent to the Secretary of State.

Mr. Eiken then noted that the Missouri Risk Based Corrective Action (MRBCA) workgroup was still working on the proposed updates to those rules, and information would be presented to the Commission when they had something finalized.

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

5. LEGISLATIVE UPDATE

Mr. Tim Eiken, Director's Office, HWP, again addressed the Commission and noted that they were still watching one or two bills that contained subject matter that may impact the Department. He went on to state that the Drycleaners Environmental Response Trust (DERT) Fund was scheduled to sunset and that there was always a possibility that legislation may be filed to extend the fund.

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

6. FINANCIAL RESPONSIBILITY

Mr. Mike Martin, Compliance and Enforcement Section, provided the Commission with 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.

He noted that 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. He noted that this equated to a 95% compliance rate.

Mr. Martin advised that as of November 29, 2016, of the 2,463 facilities required to have financial responsibility, 71 are currently without verified coverage. This equates to a 97% compliance rate.

And, he advised, as of November 29, 2016, of those 71 sites, 24 are currently at the Attorney General's Office for legal action, 14 are currently in the Enforcement Unit and 39 of those have had initial letters concerning their compliance. In addition, of those 71 sites currently without coverage, 34 currently have pending applications with the Petroleum Storage Tank Insurance Fund.

He ended by noting that 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.

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

7. INFOGRAPHIC ON MISSOURI'S HAZARDOUS WASTE GENERATOR PROGRAM

Mr. David Green, Budget & Planning Section, HWP, provided the Commission with a PowerPoint presentation outlining how Missouri generators compared on a national level. He noted that the numbers were based on a report generated by the EPA and that Missouri comprised approximately 2.5 percent of the total national generators. He stated that Missouri had 15 TSD facilities and the 85 percent of the waste generated was sent to 2 kilns.

Mr. Green responded to a couple of questions from the Commission regarding the kilns and the types of wastes that were generated and ended his presentation.

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

8. LEGAL UPDATE

Ms. Brook McCarrick addressed the Commission and advised that she had no new legal issues to discuss at that time. She thanked the Commission and ended her portion of the agenda.

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

9. PUBLIC INQUIRIES AND ISSUES

The floor was opened to any public inquiries and no one addressed the Commission.

10. OTHER BUSINESS

Mr. Steve Sturgess, Director, HWP, addressed the Commission and provided a brief review of other issues that may be of interest to them. He noted that the RBCA stakeholders and workgroups were still holding meetings to update the Risk Based Target Levels and draft guidance documents were being prepared. He noted that the next meeting was scheduled in

January. He advised that the Vapor Intrusion subgroup had met on December 8th and that the VI evaluation document was being distributed to the stakeholders for comment and input.

Mr. Sturgess then advised that pesticide collection events were being scheduled for 2017 and that 6 events were scheduled. He noted that they were anticipated to be held in Portageville, Fairfax, St. Peters, Sikeston, Chillicothe and Lockwood.

He then stated that the DERT Fund was scheduled to sunset in 2018 if there was no legislative renewal. He noted that there was no industry attempt to date and that there was a plan being developed to close out the fund, but advised that it was fairly complicated.

Mr. Sturgess noted that the EPA has completed its review of the Tanks Program and of PSTIF and that the draft report had been issued and received. He stated that comments and a response were being developed and a copy would be provided to the Commission when it was released by management. He noted that this was only a draft report and that the final report would follow. He went on to state that the EPA had ordered a joint plan be initiated within 45 days of the issuance of the final report. He noted that failure to comply, and some of the issues that were noted, could jeopardize the SPA.

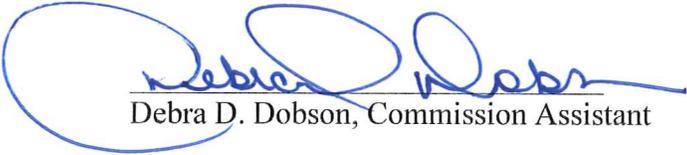
No questions were posed by the Commission. This was provided as information only and required no action on the part of the Commission.

11. FUTURE MEETINGS

It was noted that the next meeting was scheduled for Thursday, February 16, 2017. Chairman Aull advised everyone to have a Happy Holiday and a Happy New Year.

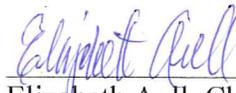
Chairman Aull adjourned the meeting at 11:01 a.m.

Respectfully Submitted,



Debra D. Dobson, Commission Assistant

APPROVED



Elizabeth Aull, Chairman



Date