

Missouri Department of

Natural Resources

Missouri's Draft Regulation on Packaging, Marking and Labeling Hazardous Waste Containers

Hazardous Waste Forum

October 6, 2011

Comparison of EPA's PM&L storage regulations to Missouri's

- EPA - words "hazardous waste" and accumulation start date
- Missouri - package, mark and label hazardous waste per U.S. DOT during the entire onsite storage period

- Progress has been made in HW Forum to address concerns
- Met several times to address challenges, concerns
- Worked on language to achieve mutual goals

Goals of storage regulations

- Protect human health and the environment
- Prevent costly cleanups by promoting good hazardous waste management practices
- Principles –
 - Knowledge of hazards = Safety for everyone
 - Safety onsite as well as in transport

Motivations

- Safety for employees, neighbors, emergency responders, others
- Help prevent mixing of incompatible wastes (human exposures, toxic mists and gas, fires, fumes, explosions, minimize releases to surface water and groundwater)

Actions prompting rule amendment

- REGFORM asks for elimination or amendment of Missouri's regulation
- Discussions and drafts from Hazardous Waste Forum
- Home Depot and Walmart petition Hazardous Waste Commission for rule changes

Other activities on PM&L rule

- Container management workgroup formed in Hazardous Waste Forum
- Survey sent to obtain input from other stakeholders (results on Forum webpage)
- Survey results shared during April 7, 2011 Forum meeting
- “Concepts” for potential changes presented, discussed and shared with stakeholders and posted on Forum webpage
- Draft rule placed on Forum webpage, comments received and redraft presented October 6, 2011 Forum meeting

Options discussed (all requiring amendments)

- In process option (follow federal requirements for wastes when still adding or transferring wastes between containers, and full PM&L when the container is full or no longer adding to or transferring waste)
- Some standard of labeling (e.g., partial DOT labeling or marking; just labeling; or extra wording to identify contents)
- Tiered regulatory system (generator could declare status as LQG and follow state and federal LQG regulations to have discretion to follow only federal PM&L regulations for storage)
- Marking outside of storage area

Regulation redraft

- Maintains some standards for marking and labeling while in storage
- Allows option of following current regulation
- Provides exemption from full packaging, marking and labeling per U.S. DOT during the onsite storage period upon registering as PM&L exempt
- Provides alternative regulations for PM&L declared generators

Major proposed rule changes

U.S. DOT packaging, marking and labeling eliminated for those declaring PM&L exempt status

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For PM&L Exempt - DOT packaging no longer required during entire onsite storage period



PM&L exempt marking no longer required during onsite storage period

- Hazardous Materials Table - 49 CFR 172.101
 - Column 2: Hazardous materials descriptions and proper shipping names
 - Column 3: Hazard class or division (9 of these)
 - Column 4: Class or Division - UN/NA Identification number
 - Column 5: Packing group - I, II and III
 - Column 6: Labels

PM&L exempt will no longer label containers per DOT during entire onsite storage period



The redrafted regulations

Stakeholder comments
and MDNR responses



10 CSR 25-5.262(2)(C)1.A. – Small Quantity Generators or Large Quantity Generators may request an exemption from the requirement to package, mark, and label hazardous waste containers during the entire on-site storage period. To qualify for the exemption, in addition to complying with all other current state and federal regulations applicable to its status, a generator shall:

- (I) Submit a generator registration form declaring themselves a PML Exempt Generator; and

UMC comment: Asking for something additional.

MDNR response: Keeps state informed of status, clarity for ease of compliance, amended registration form--no fee, consistent with current regulations requiring update when info changes. Only for those choosing PM&L exempt status.

Home Depot comment – 35 stores in MO -

Will generator registration form be different from current form or a section of a revised form currently in use?

MDNR response – Revised version of one currently in use (anticipate checkbox for PM&L exempt with date).

Home Depot – Will generator be required to only file once or must it be renewed annually, bi-annually, etc.?

MDNR response – Those requesting PM&L exempt status need only notify once and update any time the information changes as required by current regulation. This update is not required annually, bi-annually, etc.

Home Depot – If a generator has multiple locations in the state, must each location file the PM&L exemption form, or will the generator have the option of filing one PM&L exemption form for all locations?

MDNR response – As registrations are location specific, a form for each location must be submitted to declare status. This may be submitted by the corporate office if desired.

Home Depot – Must generator retain copy of executed PM&L exemption form, and if so, where and how (e.g., corporate, displayed at location, hard copy in store file, electronic copy accessible during inspection)?

MDNR response – Current regulations do not require NORWA at generator's location, though this is recommended. Inspectors typically inquire as to whether information on the form has changed during the inspection.

(II) Clearly mark each container in storage with the date upon which accumulation begins and the words "Hazardous Waste" as specified in 40 CFR 262.34(a)(2) and 262.34(a)(3); and

No comments – Existing federal requirement

(III) Clearly mark each container in storage with the generator's name and address or clearly mark this information on the outermost container when multiple containers are stored in a larger **sealed** container; and

Stakeholder comment – “Closed” better word choice than “sealed?”

MDNR response – EPA uses term “sealed” in guidance.

Schreiber, Yonley & Associates comment –

Suggest requirement for marking with name and address not apply to container smaller than 1 gallon which are intended to be lab-packed, as containers are so small, no room for the information.

MDNR response – Tags are allowed. Willing to discuss container size limits (upper and lower) during Forum.

Identification standards comments



General concerns highlighted

(IV) Have a method to identify the contents of each hazardous waste container in storage and the associated hazards **and incompatibilities associated with the contents**. **Whether the information is on the container or in documentation**, the generator must, **at a minimum**, be able **to immediately make accessible** to facility personnel, inspectors, and emergency responders the following information for each container:

- (a) **Composition** and physical state of the wastes; and
- (b) Statement or statements which call attention to the particular hazardous properties of the waste (e.g., **flammable**, reactive, etc.); and
- (c) **Hazardous waste codes** pursuant to 40 CFR part 261 Subpart C and Subpart D (i.e., a maximum of 6 that are most applicable to the waste).

UMC wanted flexibility and to remove all but first sentence, requesting general requirement for method or system to demonstrate knowledge.

- Hazardous waste codes not required until shipment so unnecessary for storage.
- Walmart also requests elimination of waste codes or modified to remove immediacy requirement. Waste info managed at home office and can be provided in reasonable timeframe.

MDNR response – We believe that some marking standards prior to shipment are appropriate for proper hazardous waste identification and safety. These minimum requirements would provide the “methods” that the stakeholders and the department have been discussing for a waste management system. The rule allows this information “either” on the container or in documentation. Standards are necessary to provide a minimum baseline for defining an acceptable “method.”

MDNR response on waste codes –

Waste codes are “language” of hazardous waste identification. These demonstrate that generator has knowledge. Waste may have more than one code revealing useful information for waste manager, inspectors and shippers. If DOT packaging, labeling and marking is no longer required, waste code info is more valuable to waste managers for safe onsite handling and storage.

(IV) Have a method to identify the contents of each hazardous waste container in storage and the associated hazards **and incompatibilities associated with the contents**. Whether the information is on the container or in **documentation**, the generator must, **at a minimum**, be able **to immediately make accessible** to facility personnel, inspectors, and emergency responders the following information for each container:

Home Depot and Walmart note the method to identify incompatibles is unclear. “At a minimum” also unclear.

MDNR response – Removed the words “incompatibles associated with the contents.” The words “at a minimum” had been used clarify that additional information on a container would not be deemed in violation. However, we will remove this and note in guidance that we will not cite the generator for placing additional information on the container as long as it does not conflict with or interfere with the required information.

Home Depot and Walmart notes concerns on “composition” and recommends “contents.”

MDNR response – We removed “composition” and replaced it with “description of contents.” We also replaced the words “physical state of the waste” with the words “solid, semi-solid, liquid or contained gaseous material” to be consistent with terms in 40 CFR 260 and to clarify intent.

Walmart – Recommends reword of “Written statements or other systems which identify the particular hazardous properties of the waste (e.g., flammable, reactive, etc.). States this info is available and visible on Waste Management Poster and in electronic handheld terminals for particular consumer products.

MDNR response – Would like to retain the word “method” as it encompasses “systems,” and acknowledge the color bucket system as a “method” to identify container contents. Note that a change was made in (IV)(b) to “ignitable” rather than “flammable” to better align with hazardous waste definitions.

REGFORM proposes federal only regulations for storage.

MDNR has worked with stakeholders to eliminate previous DOT PM&L standards during storage and to develop alternative standards based solely on hazardous waste regulations. Working together, we believe the new draft standards include a small number of critical elements for those who choose the PM&L exemption. The regulation also allows the majority of survey respondents to follow current regulations with no additional action required. Having some minimal protective markings beyond the federal requirements may help generators to avoid more serious violations, accidents and releases.

REGFORM proposes the option of complying with the existing state rule OR the existing federal rule.

The department's response is the same as on the previous slide.

REGFORM – Suggests presenting options to Hazardous Waste Management Commission for decision if MDNR does not chose to propose either of REGFORM's two previous options.

MDNR response – This is an option if we are unable to reach consensus on a draft through the Forum.

B. Generators who claim the exemption specified in 10 CSR 25- 5.262(2)(C)1.A. shall comply with the requirements in this subparagraph in lieu of the requirements for packaging, marking and labeling hazardous waste during the entire onsite storage period as specified in 10 CSR 25-5.262(2)(C) 1.

No comments.

Prevention/Protection

- Work with stakeholders continues on solutions that allow flexibility while meeting goals.



Discussion



10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste

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

(C) Pretransport, Containerization, and Labeling Requirements.

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

A. Small Quantity Generators or Large Quantity Generators may request an exemption from the requirement to package, mark, and label hazardous waste containers during the entire on-site storage period. To qualify for the exemption, in addition to complying with all other current state and federal regulations applicable to its status, a generator shall:

(I) Submit a generator registration form declaring themselves a PML Exempt Generator; and

(II) Clearly mark each container in storage with the date upon which accumulation begins and the words “Hazardous Waste” as specified in 40 CFR 262.34(a)(2) and 262.34(a)(3); and

(III) Clearly mark each container in storage with the generator's name and address or clearly mark this information on the outermost container when multiple containers are stored in a larger closed container; and

(IV) Have a method to identify the contents of each hazardous waste container in storage and the associated hazards. The generator must be able to immediately make accessible to facility personnel, inspectors, and emergency responders the following information for each container:

- (a) Description of contents and whether the waste is solid, semi-solid, liquid or contained gaseous material; and
- (b) Statement or statements which call attention to the particular hazardous properties of the waste (e.g., ignitable, reactive, corrosive or toxic); and
- (c) Hazardous waste codes pursuant to 40 CFR part 261 Subpart C and Subpart D (i.e., a maximum of 6 that are most applicable to the waste).

B. Generators who claim the exemption specified in 10 CSR 25-5.262(C)1.A. shall comply with the requirements in this subparagraph in lieu of the requirements for packaging, marking and labeling hazardous waste during the entire onsite storage period as specified in 10 CSR 25-5.262(2)(C)1.