



Missouri Department of Natural Resources

Hazardous Waste Program

Hazardous Waste Forum Summary

July 11, 2011

Bennett Springs/Roaring River Conference Room

(Note: The minutes taken at Hazardous Waste Forum 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 phone lines were opened at 09:50 a.m. The meeting was live-streamed on the Web, with the broadcast beginning at 10:00 am.

Meeting Facilitator: Crystal Lovett – Missouri Department of Natural Resources (MDNR)

Crystal Lovett opened the meeting at 10:02 a.m.

Mr. Tim Eiken, Hazardous Waste Program (HWP) Rules Coordinator, was introduced to the participants; he provided a short update on current rule packages the HWP has in process. He noted that the public hearings on the amendments/updates to the Hazardous Waste rules had taken place at the June 2011 Hazardous Waste Management Commission meeting. Testimony was given by the Department and the public was also provided an opportunity to testify. He noted that minimal comments had been received during the public comment period, and they had been addressed. He advised that the Department would be recommending that the rule changes be adopted at the August 2011, Hazardous Waste Management Commission meeting. The Commission would vote at that time, and if approved, the packages would then be filed with the Joint Committee on Administrative Rules. Following that, they will be filed with the Secretary of State's office, to be effective on December 30, 2011.

An opportunity was provided to the participants to ask any questions and none were received.

Ms. Lovett announced the first agenda topic, Container Management Discussion, with a review of the Satellite Accumulation language.

Mr. David J. Lamb, Director, Hazardous Waste Program, noted that the Satellite Accumulation topic was on the agenda even though there had been an agreement reached after the previous meeting. He noted that following the last meeting, the Department had received some feedback that some were not happy with the language yet, so it was placed on the agenda to discuss further. He provided an overview of the current concept, including:

- Multiple containers up to 55 gallons total volume of each waste stream in the satellite accumulation area; and
- Differing from the federal guidelines, the regulation will retain Missouri's one year time limit.

He went on to explain that in order to avoid any concerns by the U.S. Environmental Protection Agency, we must maintain the one year time limit if we continue our position of allowing 55 gallons to be accumulated of each waste stream.

The floor was opened to questions/comments: (paraphrased)
(Q-questions, R-responses, S-statements)

Q: one year applies; one year no matter what?

R: Yes, one year – not either/or.

Mr. Lamb asked the participants if there were any other issues that needed to be decided, or “can we move forward?” “Any opposition?” No responses were received.

Ms. Lovett then moved on to the Packaging, Marking and Labeling item on the agenda, beginning with a proposal from one of the attendees, Scott Lemmons. Materials he submitted for discussion were posted on the Forum Webpage with the meeting agenda and other materials.

He noted that there were 4 things that his group kept coming back to:

1. The requirement for DOT labeling was unique to Missouri;
2. DOT labeling increased regulatory requirements;
3. These requirements were not useful as some inspectors may be unable to determine if the label is correct; and
4. Looking at the Department's stand – labeling is useful, and:
 - All states have burdensome regulations – they have their reasons for them. We need to agree to disagree on this.
 - Walmart and The Home Depot made a compelling argument.
 - The labels have useful information, but sometimes a label will have a misspelling or a grammatical error that makes it non-DOT compliant. Regardless, the label would have the information that is needed, that lets the inspector know what is in the drum.

An evaluation of perspectives handout was provided to the participants, with the following points being made:

- It is mandatory to require a label that notes what is in the container. A sample label was shown on the handout for review.

- This would be a good and workable compromise. This shows give and take on all parts.

The floor was opened to questions/comments: (paraphrased)
(Q-questions, R-responses, S-statements)

Q: Are you recommending this label?

A: Not specifically, this was an example of one that met the minimum requirements. It is a label, it denotes “Hazardous Waste,” and it provides information on the contents.

S: Listing components on the label isn’t generally possible. Some wastes have 300-400 hundred components. Maybe the agency shouldn’t require the label list all of them, just leave it up to the generator as to how it is documented. Give them a choice on how they provide the information.

A: An inspector wants to know the basics – corrosive, flammable, etc.

Kathy Flippin, Chief, Compliance & Enforcement Section, addressed the group and noted that the Department considers the reason for this regulation broader than just what the inspector needs. For safety, and to comply with other regulations, the generator must also know what is in the container so that incompatibles are not mixed, that the containers are stored correctly and that a method is available to access that information. A way is needed that is consistent and readily available. She reviewed several scenarios of issues that the Department was trying to address, their expectations and their reasons. One issue pointing out the importance of container labeling was the barrels that floated and were retrieved in areas affected by recent flooding.

The floor was opened to questions/comments: (paraphrased)
(Q-questions, R-responses, S-statements)

S: We concur that something is needed for the safety of all, but we have internal mechanisms for that.

Mr. Aaron Schmidt, Acting Deputy Director for the Division of Environmental Quality, addressed the crowd and asked that the Department be given the opportunity to provide our ideas on the issue and see if it addresses the questions that were still being expressed. He noted that this concept should embody these answers. He advised that the Department wanted to communicate and that they were trying to get away from “you have to do it our way,” and they were hoping that the participants could see that.

Mr. Lamb readdressed the group and began the Department's presentation. He noted the Department's concept included:

- Sending in a notification to the Department to apply for the PM&L exemption
- Marking containers in storage with the words "hazardous waste" and the "accumulation start date," per federal requirements
- Marking the containers with the Generator name & address
- Having a method to uniquely identify each container in storage that corresponds to a log. The log would have the material description, a shipping name, hazard class and label codes per DOT, as well as RCRA waste codes (a maximum of 6 that are most applicable to the waste).

He noted that the Department has come a long way since the beginning of these discussions.

Mr. Schmidt advised that whatever is done, it has to communicate knowledge of what is in the container.

The floor was opened to questions/comments: (paraphrased)
(Q-questions, R-responses, S-statements)

- S: This conversation has gone on before. These things are all required under different regulations.
- S: We believe that the majority already comply. Except for the issue of the floating barrels, these things are all addressed under current regulations.
- S: Lab pack constituents created an inability to comply. Continuing to tie this to DOT regulations negates any usefulness of this concept. The actual chemical name is more useful than DOT labeling.
- S: There is little dispute over the first three issues. But with the last one all we have done is take the DOT regulations from the bucket to the log book. Walmart could not comply. We would have to hire trained staff to list the content of items by DOT name if something got spilled in any store. This is too prescriptive and we could not comply.
- S: (Ms. Flippin): According to 262.11, every generator is required to identify their waste from the first drop of waste that is placed in the container. How do generator's keep this information to provide to the transporter? If you wait until a transporter comes to label the waste, then you are not identifying the waste throughout the process. We are trying to come up with a standard that could be useful for all in this effort.
- S: (Mr. Schmidt): Incompatibility is our focus.

The issue was discussed among the participants.

- S: Registered generators have to have their waste streams registered.
- Q: Have you looked at California's requirements? They just have a checklist to mark specifics.
- Q: (Mr. Lamb): What standard is used to determine flammability?
- R: RCRA equivalent standards.
- S: Small volume content packages are unique. DOT standards are a problem. But, there is an existing inventory of what can and cannot be lab packed.

DOT standards for lab packs were discussed among several participants.

- S: (Mr. Schmidt): On our last proposed items we tried to make these flexible. Any ideas? I am hearing a lot about lab packs, and their uniqueness, about having to tear them back down and repackage.
- S: Lab pack issues are only an issue in Missouri. They are not a problem anywhere else.
- S: (Mr. Schmidt): That is why we asked. It will be discussed with staff to see if there are ways to address this issue.
- Q: Some lab pack containers are extremely small; how do we get all that information on the container?
- S: Some of us already have sophisticated systems in place to deal with this.
- Q: (Mr. Schmidt): Can we resolve incompatibility issues with our last concept?
- Q: Is "incompatibility" defined anywhere? There is nothing simple out there. What are the inspectors going to be looking for?
- R: (Ms. Flippin): Information on incompatibility can be found in a number of places. We'd like to discuss this later in the meeting. We posted a draft guidance document on which we're inviting input from the group.
- S: Everyone has their own system for determining storage of incompatibles, i.e. manifests, profiles for waste streams, individual systems. They all contain huge amounts of information. That is what we are struggling with.

Mr. Schmidt discussed whether concept #4 addressed the issue.

- S: (Mr. Schmidt): We need a universal listing; that is why we refer to DOT. If there is something else out there that will work and is preferable, please let us know.
- S: (Ms. Flippin): Please let us know what your systems are that work.
- S: Packaging controls incompatibles. What we do is different than everybody else.
- S: DOT is not the answer.
- S: (Mr. Schmidt): Incompatibility may be one of those nebulous things that have to be addressed with each individual generator.
- Q: Can the first requirement be complied with on-line regarding registration?
- R: We are trying.
- Q: Can this just be an amendment to the existing registration?
- R: Yes, this would be just an amendment.

- S: There are advantages to using both systems, depending on the situation. The “all or nothing” approach does not speak to the broad variety of issues from certain generators.
- R: All you have to provide is documentation – no matter what it is, other than memory, regarding what is in the containers.
- R: Inspectors will be going to each facility having some idea of what to expect.
- R: Gives you the leeway to demonstrate however you want to.
- S: Must include the flexibility for all of the variety of different operations.

Ms. Lovett called for a lunch break at 11:45 am, noting that the Department representatives will be discussing options and will provide updated concepts to the group after lunch.

The meeting reconvened at 1:05 pm. Note: (2 participants rejoined on the phone, with 6 joining the live-stream broadcast.)

Mr. Lamb addressed the group and began with a review of the Department’s concept on the Packaging, Marking and Labeling rule.

1. He went over generator registration for the exemption and asked if there were any questions regarding what we proposed? None received.
2. He discussed the marking requirements and noted the requirements in Subsection II of the draft rule were straight federal requirements.
3. He reviewed the discussion on the marking of the container with the Generator name and noted we would amend to refer to the outer container.
4. He then focused the group on Subsection IV and V of the draft and note the language still needs development. Subsection IV without Subsection V will not work for DNR. We need to combine the ideas into a format that will work.

The floor was opened to questions/comments: (paraphrased)
(Q-questions, R-responses, S-statements)

- S: Your wording includes “have a method to uniquely identify each container.” “Uniquely” will be a problem.
- R: Just determine if they demonstrate compatibility.
- S: (Mr. Schmidt): We will need guidance documents that correspond with each concept.
- S: (Ms. Flippin): Our idea was that most generators know what is in their containers. Some never have more than one or two containers of a particular kind of waste. When you ship, the information will be put on the container anyway. Small generators with few waste streams do not have a problem complying;

multiple and varied waste streams are more the issue. DOT is the standard we've used for most chemical names, it is the most commonly used list that is why we use it. A possible alternative would be to identify the source.

Q/S: (Mr. Schmidt): Aren't you already doing this under current regulations? We are just trying to make sure that practices meet the need to identify incompatibility.

S: There is the option of one or the other.

S: Identify chemicals? This is not doable. Some chemicals are trade secrets. California's requirements are to check the boxes that pertain.

S: The Department would need to iron out the details on how to make sure the inspectors expectations were consistent.

Ms. Flippin noted that there was a need to talk about specific scenarios, which were discussed.

S: We just want something that employers and inspectors understand. "Uniquely" needs to go away.

S: We would be happy to help with the development of training.

S: Sounds like a good direction we are headed in, I will need to check with my constituents.

S: (Mr. Schmidt): We will be taking this back to develop some language; we will need to check with the Enforcement folks. We must give them some realistic direction. This will be a big challenge.

Ms. Lovett advised that the discussion would be moving on to the next agenda item – Previous Forum Topics.

A discussion on Aerosol Cans had been on a previous agenda. Mr. Dennis Hansen, Compliance and Enforcement Section, addressed the group and noted that an updated fact sheet had been out for comment since April 2011. The Department had received no recommended changes and we are set to finalize unless someone has something further. He requested that interested parties review the fact sheet and send any comments to him by e-mail.

Ms. Flippin addressed the next agenda item, the guidance for determining incompatibles that had been shared earlier. She noted that it was currently out on the Department's website for review and asked those present who had not already read it, to take a look and provide any input. She advised that the Department was looking for comments on how this could be more clear and useful.

One comment was made to reword the section noting the most common incompatibles seen during inspections to indicate this is a what "not to do."

Page Eight

Mr. Lamb advised that there had previously been a request received to include naturally occurring radioactive material (NORM) waste on the next agenda. He advised that if anyone was interested, to let him know and he could get someone from the Solid Waste Management Program to provide information at the next meeting.

Mr. Lamb and Ms. Lovett advised that additional items were needed for the agenda for the next meeting.

The floor was opened to questions/comments: (paraphrased)
(Q-questions, R-responses, S-statements)

- S: For the NORM topic, you may want to see if you could get Nuclear Regulatory Commission (NRC) inspectors to answer questions.
- S: During past meetings the federal guidelines on “What is a closed container” have been discussed. I still have lingering questions.
- S: Another topic would be an offline discussion on Universal Waste.

The date for the next meeting was set for October 6, 2011 from 10:00 am – 2:00 pm.

The meeting was adjourned at 2:07 pm.