



Missouri Department of Natural Resources

Hazardous Waste Program

Hazardous Waste Forum Summary

October 6, 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 09:55 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 10:13 a.m.

Introductions were made around the room.

David J. Lamb, Director, Hazardous Waste Program, addressed the meeting and provided information regarding recent Department management changes. He noted that Davis Minton was gone, but may be working some part-time finishing up projects. He advised that Leanne Tippett Mosby had moved to the Department Deputy Director position and that Alan J. Reinkemeyer was now the Acting Director of the Division of Environmental Quality. He provided some background information on Mr. Reinkemeyer and advised that Steve Feeler and Aaron Schmidt were now in permanent positions as Deputy Division Directors. He went to note that Lori Gordon was now permanent with the Division of Administrative Support and that Kyra Moore was now permanent with the Air Pollution Control Program.

Mr. Tim Eiken, Director's Office, Hazardous Waste Program, addressed the group next and provided a brief update on rule developments. He provided an overview of the proposed rules, the public hearing dates, which orders had been filed with the Secretary of State's office, their effective dates, and that the Underground Storage Tanks Risk Based Corrective Action rules were ready to be proposed again.

Ms. Kathy Flippin, Chief, Compliance and Enforcement Section, provided a PowerPoint presentation on the proposed changes to Missouri's regulations on packaging, marking and labeling hazardous waste during storage (PM&L). She summarized comments received from stakeholders and actions taken to incorporate or address the comments.

Ms. Lovett opened the floor for discussion on the issue.

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

- S: A participant noted that the word “ignitable” in the proposed PM&L regulation was better than “incompatible,” but that neither is defined. He stated that his company did not like using up to six (6) waste codes as this requires specific training that isn’t currently required until time of shipment. Smaller generators rely on others to come in and characterize their waste. Training experience is an issue. Having to keep waste codes leaves the possibility of waste being put somewhere other than in storage area if it cannot be fully characterized for storage.
- S: The federal rules are protective enough – this is our point – that’s where we have our line.
- S: Requiring a generator to declare its status on a revised notification of regulated waste activity form is overly restrictive. Some generators have a large area or have several different types of operations under one generator ID number.
- R: Mr. Lamb responded that generators could use the U.S. Department of Transportation (DOT) PM&L as an alternative. We’re only asking that you send in a notification form that says you wish to use the alternative system check a box and you’re done. If the inspectors go on site and sees the alternative is used they will need to ask more information.
- S: There are different levels of waste processing in the same area. The packaging requirement is the most problematic.
- R: David Lamb stated that packaging was one of the requirements we gave up for the alternative method.
- Q: How do we disseminate info to those that are regulated about what is compliant?
- R: Mr. Lamb responded that the Department could include information in the annual invoices, listservs and other outreach would need to be developed for options.
- S: Make it large and clear.
- Q: We question the word “closed.” Retailers and others with containers in bins with smaller containers inside might find closure difficult.
- R: Mr. Lamb inquired as to whether the internal containers were labeled. We are trying to determine how to appropriately label containers with the generator’s name and address so that if a container got separated from the generator, we could determine the owner, or that in a flood situation, for example, the small containers would stay inside.
- S: No other regulations address all natural disasters. There needs to be different options on how to store individual containers.

- Q: What does this rule get that complying with the federal rules doesn't get? Nothing. Each time we make up a new concern. This is a deception and it is time to talk about what is you really care about. The proposed rule is so complicated that everyone will be in violation to some degree.
- R: Mr. Lamb responded that he strongly disagreed that we have come up with issues that aren't real. This group would not have worked this hard on something that would have that outcome. We have received support from several participants on this proposal that we are moving in the right direction, more simplified and we have made numerous concessions. However, there has been no move at all on the speaker's part to compromise.
- S: Does it make sense because no other states are wringing their hands over floods.

The issue of additional information beyond federal was further discussed.

- R: Ms. Flippin responded that we have been clear all along on intent—that there is need for information about what is in the container and the words Hazardous waste are not sufficient. These words do not tell the handler of the waste what is in the container. We are needing clarity on the contents of containers for safety. The federal regulation does not identify the contents of a container so that other regulations might be complied with. We are only asking for minimal information that is already required by hazardous waste regulations in some way. The facility already has the information, we're just asking that it be available. We wrote it this way for flexibility.
- S: Generators will do their best but most don't know how to identify and package their waste. When the TSD assists the generator, some don't know the contents of their container. If the TSD is presented with a container and the contents are not correct, they will fix and ship it. The generator may still not know what was in the container. If we allow them to follow federal rules, this would save a lot of time and effort.
- S: The in-process time is where the PM&L rules give the generator the hardest time. If segregated by a tote and the tote doesn't have a lid, this is a hard thing for people to get a grasp on.
- S: The rule, as written, does not accomplish what you are trying to accomplish. This rule doesn't fix what you are trying to fix.
- R: Ms. Flippin responded that this is where we disagree. The department has stated that some information is better than no information. If you do not know what is in the container you cannot respond adequately to problems or comply with other regulations. Waste codes are a standard and can be referenced for more information. Generators should know what their waste codes are. One

stakeholder said that TSDs help folks to know their container contents—this helps the generator to avoid burns, fires, etc. Reality is that if you are a new employee and it is your job to manage the container, you want to know about its contents. Waste codes are a standard.

S: We know some. The consultant is the one to fix errors on site. The generator does not always know; they rely on the consultant.

R: The generator should know what the contents are.

S: Every large quantity generator should have this information, we can live with this.

Q: Define “container.” Containers like paint cans, aerosol cans have some material in them—in a closed bin? Paint in a closed container? 50 gallon drum with a seal? Wooden bin that closes up?

Discussion within the group on how they define a container.

R: Ms. Flippin responded that in the draft rule there was an option to place small containers inside a larger container and just marking the generator’s name and address and the words hazardous waste and accumulation start date on the outside of that container.

Q: Is “closed container” defined somewhere else?

R: Ms. Flippin responded that it was addressed in guidance.

S: I would like to point out that the presumption appears to be that if REGFORM and others believe that federal rules are sufficient because EPA has a mandate to protect human health and the environment. There have been extreme comments being made on both sides, which are close to becoming disrespectful. If the federal requirements are good enough for EPA and 48 or 49 states, why are they not good enough for Missouri? This still requires additional effort that should not be required. You have moved from the existing rule but still have additional requirements as opposed to just federal. It doesn’t feel like moving closer. The goal is harmonizing with the feds and we are still far from the goal and getting nasty is not conducive to finding a win-win.

S: In discussing the Department’s responses to Walmart’s comments, it is unknown if changes will have to be made to comply with Missouri’s requirements. Walmart made 4 comments and several were accepted. The suggestion “written statement or some other system” was not accepted. We are trying to reach a workable solution so we do not have to change the process just for Missouri. We are required to train employees commiserate with their level of responsibility. If I have a process and train my staff to that system, and can explain to the inspector, then is this compliant? The issue of waste codes is the detail that is creating the issue.

- S: Training is an issue. A LQG must have training commensurate with their hazardous waste responsibilities and duties. Marking with hazardous waste codes would be a big problem.
- R: The documentation does not have to be on the container.
- S: One can't expect the person on the floor to know the details. I can get that information. I don't see anything in this rule not required by federal rule, but do see more detail. Waste codes are required on a manifest, not for the person moving the drum.
- R: Mr. Lamb responded that at any given time, someone should be able to tell us about a container's contents and asked at what point one must determine if their waste is hazardous.
- S: I have the information, it is not on the drum. It needs to be provided by a person "commensurate with their responsibilities."
- Q: Is it sufficient to ask the waste transporter?
- R: Ms. Flippin responded that there just has to be a method for making the information available. If this information is linked to the transporter as assisting in providing that information and was available, this would be allowed.
- S: If it is already required in different regulations, why have it here? This isn't necessary.
- R: Ms. Flippin – It does need to link to something. It is the generator's requirement to know the properties of the waste.

The federal regulations were outlined and discussed.

- S: Smaller generators have no training; they depend on their contractor to help them.
- S: The problem with the Walmart type stores is having someone trained in this, on site at all times. We would prefer to be talking about this in a guidance document.
- R: Mr. Lamb – We are looking for minimum standards. We are trying to wordsmith the language. These are our minimums that we would like to see.
- R: Ms. Flippin – We need some system in place. We will follow your system or method that you put in place.
- S: The whole concept is poor for lab packs. Small containers put in large containers and marked – when it is time to ship you have to open the container, etc. For labs, this keeps getting written to deal with drums and bulk quantities. Lab pack quantities are impractical, without an alternative.
- Q: Mr. Lamb – How do you do it now?
- R: We have to lab pack; immediately pack and repack, etc. But, for Missouri this is not enough. This is not doing anything but adding additional work and cost to the lab pack waste generator.

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Ms. Lovett called for a break for lunch at 12:02

The meeting reconvened at 1:07

Ms. Lovett noted that the meeting would be moving on to the NORM Waste item on the agenda.

Mr. Eric Gramlich, Solid Waste Management Program, addressed the group and provided a PowerPoint presentation on Normally Occurring Radiological Material (NORM) waste. He described the process of dealing with the waste and what is included in the category.

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

Q: How do smoke detectors get into the NORM field?

R: Bulk disposal is addressed. Smoke detectors typically fall into household hazardous waste (HHW) regulations for disposal.

Mr. Joe Koch, R.M. Wester & Associates, addressed the group and advised that his company receives calls regarding disposal of NORM waste. They assess, take samples of material, bring back to the lab and analyze. They determine the isotope and the amount. There are different levels, different classifications. An analysis package is put together for the Solid Waste Management Program to review. Depending on the municipality, there are different types of permits. Once approvals are received, they send to the landfill. There is a lot of coordination involved. The analysis determines if it is NORM or Low Level Radioactive Waste (LLRW). 65% of it is NORM, the rest will be RW of some sort. He went on to describe several scenarios where this can occur, both manufacturing issues and deception. He noted that was an extensive process and takes time to make all the determinations—typically approximately 6-8 weeks. There has to be coordination between the contractor, the Department, the NRC, etc. Materials have to be accounted for, identified and appropriately handled.

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

Q: How many times do you have to respond to this type of thing?

R: Approximately 30 per year.

Q: If I have the material, and get the approval, can it only be disposed of in Missouri?

R: Our approval may not allow you to dispose of it outside of Missouri. If they will accept it, then okay

Ms. Lovett noted that the Forum would address Clean Closure at the next meeting. The discussion would return to rule language.

Mr. Lamb began with noting that if it was some of the parties' bottom line that the rule needed to be federal equivalency, then determining how this was going to move forward was needed. He inquired if attendees wished the Department to draft a rule to go before the Hazardous Waste Management Commission, or were the participants willing to work on this.

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

- Q: Issue with #4, waste codes, most wouldn't be able to comply. This is more stringent than anywhere else.
- S: Lab pack is DOT wording – for discarding used chemicals in small quantities. Should read “Those items destined for lab pack.....” The guys that are lab packing need to know what is in so they can pack it.
- R: Are we okay with #1 and #2?
- R: We can live with it.
- Q: Can generator number be used – it identifies the generator?

The use of a generator number was discussed among the participants. Some were agreeable, some were not.

- S: Am not sure why you want to include the name and address.
- R: Mr. Lamb – it identifies who the owner is if it is disposed of improperly.
- Q: Would limiting container size make it easier for the state?
- R: Mr. Aaron Schmidt, Deputy Division Director, responded that the Department would like to continue this discussion. We will take the information that has been provided and it will be posted for all. There will be a 7-15 day period to respond, and we will continue to respond to your comments. Give us your ideas.
- S: I don't understand the reasoning for #3. Why? It is required nowhere else in the country. Once you delineate down to lab packs, etc., it dilutes it down to make it totally unnecessary. The shipping process has already been complied with by the time it is turned over to the transporter.
- R: Mr. Schmidt: We understand that there comes a point where it is undoable. We are looking for size limit.
- S: We need a regulation that can be simply complied with.

Item #4 was discussed. It was noted that the group wanted to see the Department work on that item. It was stated that waste codes are overly burdensome.

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Mr. Lamb inquired with what frequency the group wanted to continue the meetings. He advised that the Department would be accepting comments and posting responses, and following up on suggestions.

A timeline was discussed for presenting draft language to the Hazardous Waste Management Commission, with no decision being made.

The date for the next meeting was set for December 9, 2011 from 10:00 am – 2:00 pm.

The meeting was adjourned at 2:07 pm.