



JEREMIAH W. (JAY) NIXON
GOVERNOR

CAROL R. EIGHMEY
EXECUTIVE DIRECTOR

MEMO

To: PSTIF Advisory Committee

From: Carol R. Eighmey, Executive Director *CRE*

Re: Update on DNR Rules

Date: January 4, 2012

UST Operating Rules

In August 2011, the DNR's Hazardous Waste Management Commission, (HWMC), voted to finalize and publish a rules package that (a) moved the old, 1990s-vintage rules governing USTs from the Clean Water Commission to the Hazardous Waste Management Commission, (b) updated obsolete references in those rules, and (c) added some new requirements for UST owners/operators. This rule package was thoroughly vetted and discussed with the Advisory Committee and numerous others, and there was no opposition to the final package.

The new rules were published in the Code of State Regulations on November 30, 2011 and went into effect on December 30, 2011. They can readily be accessed from the PSTIF website. Heather Peters will attend your meeting to answer any questions you may have about the new requirements.

Risk-Based Corrective Action Rules for Tank Sites

The rules package mentioned above included the cleanup rules; it moved them to the proper Commission and updated them by changing references to obsolete guidance documents so that the DNR's rules now officially reference the 2004 Guidance Document and subsequent supplemental guidance issued in 2005. This means that, for the first time, there are official state regulations that require owners/operators who have a leak to do the things the Tanks Section has been requiring for the last eight years. This is good!

Meanwhile, the DNR staff has been engaged in dialogue with the HWMC and others about making changes to the current RBCA requirements. Numerous changes and additional requirements were proposed in a set of draft rules posted on the DNR web site in September. At the time, the DNR intended to ask its HWMC to publish these proposed new rules and proceed with a formal public comment period. Subsequently, the DNR decided to postpone this; a recent email from David Lamb explaining this decision is enclosed.

Committee Action: None requested.



Petroleum Storage Tank Insurance Fund

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PSTIF

From: Lamb, David [david.lamb@dnr.mo.gov]

Sent: Tuesday, January 03, 2012 10:00 AM

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Subject: Tanks RBCA Status

Dear Stakeholders:

At the December 15, 2011, Hazardous Waste Management Commission meeting, the department asked the Commission for a one-year extension to the deadline for developing tanks Risk-Based Corrective Action (RBCA) rules. The Commission granted the extension. Therefore, the department will not begin the formal rulemaking for the tanks RBCA rules until January of 2013.

The department asked the Commission for the extension for two reasons:

1) EPA plans to release guidance pertaining to petroleum vapor intrusion in 2012 (draft guidance in the spring and final guidance in November 2012). Indications are that the new EPA guidance will differ significantly from the vapor intrusion provisions in the currently applicable Missouri tanks RBCA guidance, both with respect to the evaluation process and the vapor intrusion target levels. The department believes it preferable to hold off on developing final rules until the EPA guidance is available and can be incorporated into the proposed rules. The alternative would have had the department proposing rules that included a vapor intrusion process we knew to be inconsistent with the new EPA guidance and undertaking a separate rulemaking immediately after the tanks RBCA rules became final (which would have been December 2012) to make changes to the vapor intrusion process and target levels.

2) The department intends to both significantly revise the tanks RBCA guidance and incorporate the guidance into rule by reference. Incorporation into rule will mean that the guidance will have the force of rule. Given the heightened enforceability and significant changes, the department feels that stakeholders should have more time than allowed by the rulemaking process to review and comment on the revised guidance. The department expects the guidance revision to be complete by early 2012. We believe that will allow stakeholders plenty of time to review and comment on the revised guidance.

The department intends to hold stakeholder meetings in 2012 to go over the proposed guidance revisions and the proposed rules. In addition, we intend to post the revised guidance and proposed rules on-line for easy accessibility. You'll receive additional emails in the near future in this regard.

I thank you for your patience and your previous efforts to work with the department to develop tanks RBCA rules. I hope that you will remain involved during the coming year as we move toward the formal rulemaking in 2013.

Should you have questions regarding this development or the department's plan for the tanks RBCA rulemaking, please contact Tim Chibnall at tim.chibnall@dnr.mo.gov or (573) 522-1833 at your convenience.

Wishing you a happy and productive new year,

David J. Lamb
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