

# REGFORM

REGULATORY ENVIRONMENTAL  
GROUP FOR MISSOURI

Regulatory Environmental Group for Missouri

REGFORM

2022 Accomplishments



## 2022 OVERVIEW

What a busy and challenging year for REGFORM. The lingering impact of COVID remains but clearly did not slow down the Biden Administration, MDNR, or the business/regulated community. In fact, we were busier than ever as was nearly everyone I spoke with from membership, government, environmental professionals, and, of course, environmental activist organizations. Nearly every week saw a flurry of new federal policy announcements designed to reverse a Trump EPA rule/policy, create a new initiative or rulemaking, or simply invoke the “bully pulpit.” MDNR struggled to keep up with a staff decimated by early retirement and the inability to attract engineers and other staff in this tough labor market. REGFORM met the challenge by not only continuing our normal weekly activities but expanding our efforts to address and understand the impact of the “all of government approach” to Environmental Justice as well as the myriad of new fast-moving rules and policies. We issued more Alerts and sent out far more news articles and agency announcements.

Highlighting our accomplishments:

- 1) successfully hosting a well-attended, three-part training on “Air Construction/Operating Permitting;”
- 2) creating a new Work Group on “Environmental Justice;”
- 3) hosting an EJ seminar with top ranking regional and national experts;
- 4) expanding our weekly curated news and internet articles to include the rapid changes in EJ, emerging contaminants, and ESG confusion;
- 5) expanding our conversations to a national level on emerging state and federal policy directives; and
- 6) hosting the first REGFORM reception for MDNR top leadership in three years.

Environmental Justice remained a priority as the Biden Administration continued to lay the foundation for robust EJ activity in 2023. EPA has infused EJ into every element of environmental protection via Executive Orders, policy directives, a new high-level Office, massive funding, increased inspections, targeted enforcement, permitting challenges, standard setting, new advisory groups, staffing, and an aggressive “bully pulpit.”

## HISTORY / MISSION

Founded in 1993, REGFORM’s primary objective remains the development and negotiation of environmental regulations and policies in all media based on sound science and common sense. In addition, we provide members with valuable, timely, detailed information from the 30-50 Commission and stakeholder meetings per year that we attend on behalf of members.

We maintain close relations with MDNR and EPA regulatory officials to help us stay abreast of policy and administrative changes. All information is provided to members in real time and summarized at quarterly meetings.

We are committed to early engagement in the regulatory process to help develop regulations and policies that protect the state’s remarkable natural resources and environment, without unduly burdening regulated entities that have committed tremendous resources to create jobs, provide education, and foster economic opportunity.

On behalf of our members, REGFORM:

- Advocates consensus-derived positions and interests before governmental agencies, principally the Missouri Department of Natural Resources and the relevant state environmental commissions that have rulemaking authority;
- Negotiates environmental regulations and policy from the idea stage through promulgation, implementation, and enforcement;
- Provides accurate and technically sound input early in the environmental policy and regulatory process to promote state regulations that are based on sound science; and
- Works cooperatively with other regulated entities and associations to advance our interests.

## PRINCIPAL BENEFITS

Membership in REGFORM offers many direct benefits:

- **Input into regulatory process.** We provide important, facility-specific input into the rulemaking process as part of REGFORM's on-going efforts to negotiate and advocate for regulations and policies before state agencies and commissions. We also coordinate member input on existing rules and policies as part of our active advocacy efforts to eliminate regulatory burden.
- **Regulatory Information.** REGFORM provides detailed regulatory notes and information (saving our members money in travel costs and staff time) on 30-50 meetings per year, including all major commission hearings, stakeholder meetings, and other advisory forums, including:
  - Air Conservation Commission (9-10 meetings per year)
  - Clean Water Commission (4-6 meetings per year)
  - Hazardous Waste Commission (4 meetings per year)
  - Solid Waste Advisory Board (4-7 meetings per year)
  - Air Advisory Forum (*ad hoc*)
  - Water Protection Forum (4 per year)
  - Numerous other stakeholder meetings
- **Alerts and Policy Changes.** REGFORM routinely sends out Environmental Alerts, state and federal staffing updates, EHS news links, notes from Environmental Council of States (ECOS) meetings, and additional inside information and insights.
- **Political Transitions.** During times of political transition, REGFORM helps track and report on changes in personnel, policy, rulemakings, and organization. This has become increasingly valuable as the "pendulum swings" between administrations are more pronounced. We work hard to maintain relationships with career MDNR and EPA staff to understand and mitigate "transition uncertainty."
- **Regular Communication with Members.** REGFORM has consistent and regular communication with its members largely via email but also in four quarterly meetings and three annual seminars.

- **Experienced Staff.** REGFORM members benefit from the extensive experience and high-level expertise brought to the organization by **Roger Walker**, Executive Director and **Kevin Perry**, Assistant Director who have 25+ years' experience each in EHS management and public policy. REGFORM has built a reliable reputation as the best source for Missouri environmental information.
- **Quarterly Meetings and Updates.** Members receive detailed timely quarterly updates on all REGFORM activities in air, water, hazardous waste, and environmental justice. Meetings are held four times per year.
- **Private meetings with MDNR and EPA.** We regularly invited key MDNR and EPA staff at our quarterly membership meetings and seminars. These informal discussions provide important insights and allow members the opportunity to forge relationships with regulators before an issue arises.
- **Networking among Members.** Members network and share critical information with like-minded professionals within our REGFORM membership. Members frequently provide permitting insights, strategies, enforcement updates, observations, inspection alerts and other valuable perspectives aimed at resolving the complex issues they face, all in a confidential setting. Many members learn as much from the experience of their peers as they do from regulators.
- **Seminars.** REGFORM offered four seminars in 2022. REGFORM members receive a significant discount. These seminars help keep members up to date on all current regulatory and policy issues and provide us with another forum in which to develop close working ties with state and federal regulators.
  - Air Permit Training Sessions (March and April)
  - Water Seminar (July)
  - Air Compliance Seminar (November)
  - Environmental Justice Seminar (December)
- **Legislative Updates.** By choice, REGFORM does NOT lobby the Missouri General Assembly. However, we work closely with various state and regional business associations to provide them with information on the potential impact of pending bills. We also regularly forward legislative updates on key environmental bills that these same associations share with us.
- **Streamlining.** Whenever REGFORM successfully works with MDNR to streamline permitting or reduce paperwork we save members money and staff time.
- **Missouri Environmental Reporter (MER).** We initiated the *Missouri Environmental Reporter (MER)* in 2019 to create a forum for sharing information with key service providers that often work with our member facilities. Regulatory agencies are NOT eligible to be a subscriber. Neither are companies that are eligible for REGFORM membership. The cost of the subscription is \$1,200 annually.

## Air Issues – Accomplishments

*Staff: Roger Walker. Advisor: Mike Hutcheson, Ameren.*

REGFORM in 2022 continued to work closely with the Air Pollution Control Program on NAAQS issues, Regional Haze, Environmental Justice, a “false start” on air fees, and other issues as outlined below. We attended and reported on all MACC public hearings, participated in key stakeholder meetings, hosted several REGFORM-initiated meetings with the APCP and organized a well-attended, three-part “Air Permitting Training Session,” in the Spring as well as our annual “Missouri Air Compliance Seminar” in November.

### Primary Activities

- Air Advisory Forum Meetings. The only Air Advisory Forum in 2022 (May 23) was a short virtual meeting on the “Proposed Federal Good Neighbor Plan for 2015 Ozone Standard.”
- Regulator Staff Changes. Mark Leath became the new Chief, Planning Section. The APCP was particularly hard-hit with vacancies for all of 2022 – often times operating with fewer than half the number of budgeted permitting engineers. Kyra Moore, Director DEQ, oversees the APCP.
- Air Permit Training Sessions. Our first ever such training event was well-received and well-attended. Kendall Hale, Chief, Permits Section, put together an excellent three-day training on Construction Permits, Operating Permits, and related monitoring/modeling issues.
- Air Compliance Seminar. The annual air seminar was hosted in November with the APCP as hybrid In-Person and Live Stream video production. REGFORM uses the Seminar not only to provide important regulatory updates to our members, but to forge closer relations with APCP leadership and staff.
- Missouri Air Conservation Commission. There are five (5) appointed Commissioners: Richard Rocha (Chair), Kevin Rosenbohm, Gary Pendergrass, Mark Fohey (vice chair), Ericka Baxter, and Gary Pendergrass. The MACC currently has two (2) vacancies. We attend every MACC meeting and provide timely updates on MACC issues. Aside from using these meetings for official comments, we also advocate informally for a commonsense, scientific approach to Missouri rulemaking and air policy. The MACC helps set the agenda for the APCP staff and is responsible for adopting rules, approving fees and variances, enforcement referrals and other air quality matters. Maintaining credibility with Commissioners is essential.
- Periodic Meetings with Senior APCP Staff. In 2022 we continued to have open access to Director Stephen Hall, forging a close relationship and partnership. Director Hall and his senior staff have been consistently responsive to our issues and needs. We work to do the same.

### Air Issues Addressed in 2022

- Air Fees. After some initial conversations (privately), the air fee discussion was put on the back burner as the Department focused on other fees in the General Assembly as well as the current fee authorizing legislation. The APCP need for a fee increase was

attenuated due to staffing shortages since a large chunk of the APCP budget is, of course, salaries and benefits.

- REGFORM supported the last fee increase effort of \$53/ton for 2021 and \$55/ton thereafter. The increased fee was collected in June 2022 for emissions in year 2021. REGFORM also supports a "Base Fee" for all emission sources so that nearly all emissions sources pay a more equitable share to support the APCP.
- We expect discussions to begin in earnest in Summer 2023. In the meantime, the APCP will be focused on extending the sunset provision in the current law. If not extended or revised, all fees would revert back to pre-legislative levels.
- ACE rule reprise. EPA is apparently working on a replacement rule for the Affordable Clean Energy rule (ACE) in light of the SCOTUS *West Virginia v. EPA* decision.
- Transition Issues. The "pendulum swing" accelerated during 2022. REGFORM continued to expend considerable time and effort to keep ourselves and our members up to speed on emerging developments via a review of environmental news, attending and reporting on various webinars, meeting regularly with MDNR and EPA staff, various environmental professionals, our Executive Committee, and other REGFORM members.
- Environmental Justice. For two years, the Biden Administration through Executive Orders, advisory groups, budget allocations, and Agency action has been steadily teeing up the legal and administrative support structure for advancing Environmental Justice: new federal offices and programs have been established; unprecedented amounts of federal funding have been allocated for an "all-of-government" approach; and a slew of new federal guidance, FAQs, screening tools, definitions, and policies have been issued. In short, the stage is set now for an aggressive, national effort to address Environmental Justice in 2023. These efforts will have a dramatic impact on virtually every aspect of environmental protection and regulation, including permitting decisions, public input, siting, project development and compliance/enforcement.
- Environmental Justice (continued). MDNR has steadfastly indicated that it will continue to follow Missouri law. It has indicated a willingness to help ensure that citizens have an opportunity for meaningful notice and comment of significant environmental activities. EPA has indicated that it will use federal funding as a lever to ensure that states comply with Civil Rights laws and federal policies on EJ. EPA has also noted that at least 50% of its inspections will be conducted in overburdened communities.
- Environmental Justice (continued). EJ activists in Missouri pushed for a far more aggressive public participation process within the APCP and MACC. In response, an Air Advisory Forum meeting has been scheduled for January 26, to address only these

issues, including: public hearings on virtually all air permits; six week notice for all public hearings; free access to child care, transportation; interpreters for each public hearing; an extended comment period to 90 days; and EJ screening for all new projects and the surrounding area.

- SO<sub>2</sub>. The MACC held a public hearing on the revised SIP for the SO<sub>2</sub> 2010 requirements at the New Madrid nonattainment area. They are expected to approve the SIP in 2023. The Labadie SO<sub>2</sub> area was redesignated as Attainment for the 2010 SO<sub>2</sub> standard in 2022. The area includes portions of Franklin and St. Charles counties in the area surrounding the Ameren Labadie Energy Center. Jackson County and Jefferson County were both re-designated as attainment for the 2010 SO<sub>2</sub> standard.
- PM<sub>2.5</sub>. EPA sent a proposed PM<sub>2.5</sub> rule to OMB in December. The OMB has 30-90 days to respond. The EPA rule will be published after OMB review. It seems pretty certain that the standard will be made more stringent. At a CASAC meeting last year, the majority of a special CASAC panel indicated support for tightening the PM<sub>2.5</sub> from 12 micrograms per cubic meter (µg/m<sup>3</sup>) to a level between 8 µg/m<sup>3</sup> and 10 µg/m<sup>3</sup> and for tightening the daily health-based limit from 35 µg/m<sup>3</sup> to a level between 25 µg/m<sup>3</sup> and 30 µg/m<sup>3</sup>.
- Ozone Standard. CASAC recently approved EPA's science assessment for ozone, virtually assuring that the EPA will maintain the 70 ppb standard. EPA hopes to issue a proposed new NAAQS rule in the spring and finalize it by the end of 2023. CASAC also noted that it anticipates a robust discussion of the science at the next review.
- Ozone. 2015 St. Louis nonattainment area. EPA has proposed to amend the St. Louis nonattainment area from Marginal to Moderate. The ACP is required to meet a SIP deadline of January 1, 2023. Moderate status would mean, among other things: NO<sub>x</sub> RACT and VOC RACT; require an Attainment Demonstration; a 15% Reasonable Further Progress plan; Contingency Measures; and an increase in the Offset Requirement to 1.15:1 (from 1.10:1). The area would have six years to reach attainment. The ACP will host a short virtual stakeholder meeting on January 18.
- Regional Haze. The ACP submitted a revised MACC-approved SIP to EPA in Spring 2022. There has been no response as yet. According to the ACP, the SIP will not require any Missouri facility to undertake additional controls.
- Confidential Business Information. The CBI rule revision is now final. The revised rule strikes out the language of concern to EPA Region 7 found in 10 CSR 10-6.210 (2)(E). This now deleted language had clarified what information could be maintained as confidential upon a showing of justification. It included several terms that EPA now says are always "emission data" including throughputs, design capacity, capture/control efficiencies and emission factors. The revised rule adds a definition of "Emission data" (10 CSR 10-6.210 (2)(B)) that basically parrots 40 CFR 2.301.

- Emissions Banking and Trading. The APCP resurrected this work group in 2021 but no substantive activities have taken place.
- CCR. EPA has continued its crackdown at numerous coal ash disposal sites. In 2022, EPA also highlighted new CCR compliance expectations signaling an ongoing shift to a more uniform federal program which will have significant implications for both MDNR and the regulated community.
- Good Neighbor SIP (Interstate Transport Rule). This rule was adopted unanimously by the MACC at its October 27 meeting. MDNR held a public hearing at the September MACC. MDNR is hoping to convince EPA to accept the state re-submission and avoid an EPA FIP. The supplement to Missouri's 2019 Good Neighbor SIP provides additional analysis of all receptors included in the original SIP submission as well as an analysis of the newly added receptors included in EPA's updated modeling results. The supplement uses EPA's four-step process. The new ACP effort would require a number of EGU sources to enter into Consent Agreements so that the envisioned reductions would be enforceable. We will know in 2022 if EPA will approve the ACP supplemental plan or opt instead to issue a FIP. Clearly, EPA is pushing for SCR controls for every coal fired EGU as well as regulations (for the first time) on certain industrial sources (cement, glass, natural gas pipelines, iron and steel, paper, etc SSM). EPA scrapped the Trump Administration policy change and has reverted back to the Obama-era policy requiring states to remove such waivers from their plans for attaining federal air quality standards.
- Volkswagen Settlement. (<https://dnr.mo.gov/env/apcp/vw/index.html>) MDNR in 2022 finalized Missouri's 10-year Beneficiary Mitigation Plan for using proceeds from the Volkswagen Trust and presented the report to the MACC in October. The plan summarized goals for the trust and explained the various award categories and projects. The only remaining effort appears to be funding for EV stations.
- Climate Change. Climate remains a cornerstone issue for the Biden Administration. It is infused in all environmental discussions and the EPA still seems committed to revamping the Affordable Clean Energy / Clean Power Plan rules in accordance with the U.S. Supreme Court decision in *West Virginia v. EPA*.

## Water Issues – Accomplishments

*Staff: Kevin Perry and Roger Walker.*

REGFORM in 2022 participated in Clean Water Commission meetings and sent out Commission notes to members; participated in Water Protection Forums, MDNR stakeholder meetings and other meetings on the total phosphorus reduction rule, the cyanotoxins rule, and implementation of Environmental Justice (EJ) principles/practices; provided input and comments on rules and policies; and hosted another successful Missouri



Water Seminar. We also continued to provide input to MDNR on eliminating errors from ECHO.

### **Primary Activities**

- Water Protection Forum. REGFORM continued to use the Water Protection Forum to advocate on behalf of our members on emerging water issues, forge partnerships with other stakeholders, and establish sound working relationships with MDNR upper management.
- Missouri Clean Water Commission. In 2022 REGFORM continued to participate in, monitor, offer testimony, and report on all of the meetings and hearings of the Missouri Clean Water Commission (CWC). The CWC helps set the agenda for the Water Protection Program and is responsible for adopting rules, variances, enforcement referrals and other matters. REGFORM provided regular written updates on the CWC to our members. We also participated in and provided notes for WPP stakeholder meetings.
- Missouri Water Seminar. REGFORM hosted another successful hybrid Water Seminar. We accomplished our goal of helping to define the discussion on water policy issues, provide members with the latest information on regulatory compliance and enforcement issues, forge alliances with other stakeholders, create a positive atmosphere, and supplement the REGFORM operating budget.

### **Water Issues Addressed in 2022**

- Total Phosphorus Reduction Rule. REGFORM continued to provide input on the development and drafts of the TP reduction rule. The department was highly responsive to our input and the input of other stakeholders. The rule went to final form. We reviewed the RIR and found no surprises based on our earlier discussions. This rule will be proposed and adopted in 2023. We have alerted members that the WPP will begin working on developing total nitrogen reduction efforts very soon in 2023.
- Staff Changes--The Great Resignation redux. We continued to update members on key staff changes in the WPP, DEQ, and The Department. Notable again this year was the loss of many staff. MDNR reported that for two years in a row they have had 20+% turnover in the WPP. That means 40+% of current staff are within the first 3 years of their jobs. The Water Protection Program acknowledged for the first time this year that staffing issues are impacting permit review times. They even changed the definition of a “backlogged” permit and added a provision for stopping the clock on the statutory time limits. New leadership is in place, as junior staff have been moved up to fill vacancies. Kristi Savage-Clarke, former head of compliance and enforcement passed away. Joe Clayton is the new Branch Chief. Brad Allen is the new pre-treatment coordinator, replacing the retiring Todd Blanc. John Rustige retired and left the Engineering Section. Heather Peters left her job in industrial permits to fill the vacancy left by John Hoke in the Watershed Protection Section.

- Commissions. The Clean Water Commission continued to deal with citizens and neighborhood groups resisting permitting and installation of CAFOs. We also noted that Mark Pierce was appointed as a new Commissioner this year. He replaced Pat Thomas. We noted that the huge increase in participation from citizens and eNGOs due to the availability of WebEx access to these meetings has continued. Citizens and eNGOs have been vigorously calling for CAFO reforms. MDNR conducted extensive public input processes associated with the renewal of 2 CAFO general permits. Those permits will soon be adopted. The tension and energy level around CAFOs has diminished palpably and participants in the public input process praised the WPP for the extensive efforts made to hear from concerned parties.
- SNC. MDNR continued to address errors in the data transfer process that results in the reporting of inaccurate ECHO data. (Also, EPA rolled out ECHO Notify this year. Users can subscribe and be notified of actions taken against facilities.) Like last year, WPP brought on 3 summer interns. They did a much smaller amount of data clean up this year. They focused heavily on outreach to specific facilities with non-compliance issues. These are in most cases small facilities (HOAs, campgrounds, trailer parks) that often don't even know they have a permit, let alone that they should be applying for reissuance. SNC is at 14.9%. MDNR wants to meet the national EPA goal of 10% and is working toward that target.
- Triennial Review. The new water quality standards package was adopted without much fanfare by the CWC. It was published in the CSR and went into effect. The rule was certified by the AGO and sent to EPA for formal approval. Some provisions of these rules were approved by EPA in December; others, disapproved. The Department has already begun the triennial review process for the next cycle. A list of priorities was derived from a survey conducted by the WPP.
- Nutrient Exchange. The idea behind this nutrient exchange was to take credit for BMP practices (implemented and paid for under the soils program) to create credits that could be sold. Monies generated from those sales could be used to fund further projects aimed at nutrient reductions. The Department engaged Barr Engineering under contract to develop a framework for associating particular practices with quantified reductions, which could then be used to cost out particular credits. That project was completed in 2021. But since that time, there has been no mention of the exchange. Toward the end of 2021, the concept of nutrient trading gained more interest once the Department started exploring options for phosphorus reduction rule. That rule has been finalized. Trading, as envisioned in that rule, is very much hands off by the Department. Trades will be negotiated, and prices set by the parties buying and selling the trades. MDNR will track the trades in a ledger. It appears that the original idea of an exchange has fallen by the wayside.

- Cyanotoxins. Following a petition from Missouri Coalition for the Environment, the WPP eventually developed a final rule for implementing water quality standards (straight from EPA's 304(a) list) for two cyanotoxins. We reported on this process (including its rocky start) to members and participated in the public input process. Based on our input and that of others, the standard applies only to lakes 10 acres and greater, and the Department put off a staff-burdening review of the MUDD, in search of errors associated with small water bodies which really should not be in MUDD. This review would have diverted an already short-handed staff away from permitting and other activities. The final rule will be promulgated in 2023.
- PFAS. Following calls from the Water Protection Forum participants, MDNR started a PFAS advisory group, which kicked off in November 2022. There will be extensive meetings and report outs by subgroups on a variety of topics. REGFORM is a participant in several of the sub-groups, with a special emphasis on permitting issues. EPA took major action this year on PFAS. Although we still do not have an approved test method or methods, EPA did issue interim and final health advisories on some forms of PFAS. MDNR announced its plans for a voluntary PFAS monitoring effort. If a facility agrees to do this monitoring, it will appear in the facility's permit. During discussions about this monitoring effort, we informed members that some at MDNR are anticipating that EPA will impose a monitoring requirement for PFAS. In early December, EPA then released a memo recommending BMPs that call for actions like material substitutions as a way of reducing/eliminating PFAS sources in the waste stream.
- CWA Anniversary. We noted for members that 2022 marked the 50<sup>th</sup> anniversary of the Clean Water Act. We shared a presentation from John Hoke on some of the MDNR- and EPA-related activities that have transpired during the past 50 years. By the way, John Hoke just passed the 1 year anniversary date in his "new" job as Water Protection Branch Chief.
- Unprecedented Pass-through Funding. The Missouri legislature appropriated \$114M and FTEs associated with ARPA funding. Project applications were taken between May and July on the web portal. By the end of the year, awardees had been selected and announced. This doesn't count the bipartisan infrastructure money, nor the vast increase in funding available now for the clean water and drinking water state revolving funds.
- GPs and Rules. The WPP reviewed and issued a number of general permits this year, which REGFORM followed and reported on: MO G49, MO G50 (sand and gravel), MO G822 (land application of food processing wastewater), MO G100 (CAFOs), MO G33 (extended duration oversight), MO G94 (petroleum fuel spill

cleanups), and more. REGFORM monitored and reported to members about numerous rulemakings, including: 6.010 operating and construction permits, 6.030 residential housing rule, 6.200 land disturbance permitting, 8.130 appropriately sized retention basin accommodations in space limitations, 8.200 wastewater treatment lagoons and alternative, and more.

- New BMPs in Permits. We were surprised to see what appeared to be new boilerplate language appearing in members' permits related to cleaning paved surfaces after inclement weather and fire hydrant testing/flushing restrictions. Chris Wieberg commented that they don't use boilerplate language. Any language in a permit, he advised, is a starting point for permit negotiations. Our members concurred that their negotiations were successful on these new BMPs. We met with John Hoke and Michael Abbott regarding the unannounced appearance of these permit requirements. We asked that in the future we be informed so we can alert members to new requirements. We also raised concerns about a policy of general applicability being applied without public notice and comment. They agreed to discontinue the use of this language until further consideration and involvement with affected permittees.
- ROCO Presentation. Kevin Perry was invited to make a presentation on "What I wish the Department knew and understood about regulated facilities" at an all staff meeting the WPP holds once or twice per year. ROCO stands for Regional Office-Central Office. This three-day meeting includes all water staff from the Regional offices, along with Central Office staff. Probably 150 people were in attendance. We solicited input from REGFORM members in advance of the presentation.

## **Hazardous Waste Issues – Accomplishments**

*Staff: Kevin Perry. Advisor: Brian Martin, Ameren*

REGFORM in 2022 participated in every Hazardous Waste Commission meeting and sent out Commission Notes to Members and participated in HWP meetings on federal regulations.

### **Primary Activities**

- Missouri Hazardous Waste Management Commission. In 2022 REGFORM continued to participate in, monitor, offer testimony and report on all the meetings and hearings of the Missouri Hazardous Waste Management Commission (HWMC). The HWMC helps set the agenda for the Hazardous Waste Program and is responsible for adopting rules, variances, enforcement referrals and other matters.
- Missouri Hazardous Waste Seminar. The Waste Management Program and the Environmental Remediation Program have been in a continued slow period of public action. Since so little has been happening in these programs, we decided not to host a

Hazardous Waste Seminar in 2022. Rather, we held a series of air permitting trainings and an EJ Seminar, both by live streaming video.

### **Hazardous Waste Issues Addressed in 2022:**

- Hazardous Waste Generator Improvement Rule. The Waste Management Program announced in 2019 that they would be moving forward on federal rule adoption, including HWGIR, in 2020. In December 2021, the Department released a new draft of language that would be the proposed rule for the HWGIR. The proposal includes a provision for Satellite Accumulation Areas that is widely known as The Missouri Option. The Department continues to emphasize their concern that if they adopt our comments on the HWGIR, US EPA will not authorize this rule in Missouri. An April 9 FAQ memo from EPA clarified and eliminated some of our concerns. We still have concerns about 40 CFR §262.10(g)(2), which requires MDNR to bump up to TSDF any generator who might have what could be a minor violation. We submitted a comment letter on December 20, 2021. We replied that we believe, because of their fear of losing authorization, MDNR cannot incorporate our recommended changes. Therefore, we will work directly with Commissioners to get amendments made during the formal rulemaking process. MDNR released rule language into Basecamp in mid-September. Another stakeholder meeting has been requested by some stakeholders, but no date has been set. Kyra Moore said at the 4<sup>th</sup> quarter REGFORM member meeting that we could expect action on this rule package in weeks, not months.
- Fees. There was no significant word of fees mentioned by MDNR in 2022. Director Chris Nagel did announce that the Programs would resurrect the Hazardous Waste Forum in 2023 and that fees would be a part of that discussion. Fee discussions built on the premise that the HWMC will set the fees by regulation are moot if MDNR lobbyists and stakeholder lobbyists fail to get the sunset date extended on the statute that allows the Commissions to set fees under particular circumstances.
- MRBCA, VI, & RBTLs. These efforts have remained completely stalled in 2022 with no action. We continue to inquire about movement on these issues.
- Aerosol Cans. REGFORM continued to support the adoption of the federal rule that allows aerosol cans to be treated as Universal Waste. We also called for paint and paint-associated wastes to be classified as Universal Waste. The paint waste issue will not be addressed until a preliminary federal rule can be adopted in Missouri.
- Legislation. A “no stricter than” bill, which failed in the previous year, did pass, and become law. This law impacts CERCLA as well as RCRA. VCP was not impacted. Probably the biggest impact comes from using the federal “generation” language, rather than Missouri’s historical use of “accumulation.” Now the thresholds for whether a

generator is a SQG or LQG are consistent with the federal thresholds. The DOT labeling requirement for HW tanks was also removed. Many of these “gains” for regulated generators are cold comfort. They will return when HWGIR is adopted in Missouri. Chris Nagel commented that the law would slow down the federal rule package adoption, as staff would have to scrub the existing language in search of any conflicting provisions. The law also has some impacts on solid waste re advanced recycling, asphaltic shingles, and mill scale/slag as clean fill.

- Staffing. We followed staffing issues in the two Programs as well this year. As in the other programs, Engineers are a particular issue. At one point during the year, the WMP had 20 vacancies out of a full staff of 67. John Jurgensmeyer, Director, ERP, announced his retirement effective December 31, 2022.
- Legislative Agenda for 2023. The two Programs have been participating in the process to develop the Department’s legislative agenda for 2023. If it goes forward as expected, the primary legislative focus will be on fees. The sunset on Commission fee setting authority needs to be extended. They have also expressed interest in doubling the lead acid battery fee to \$1. The Department also wants the tanks loading fee to go directly to MDNR rather than through PSTIF.
- PFAS. At the behest of new HWMC Chair, Daniel Oerther, the Commission is planning an effort to educate themselves and staff on PFAS issues by bringing in an array of experts/consultants. They anticipate that rulemaking will need to be done. They want to deepen their understanding before they face those choices.

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## **REGFORM Staff responsibilities**

1. Management Issues: Membership, policy, staffing  
Roger Walker
2. Administrative Issues: Meeting information, conferences, website, membership dues  
Kevin Perry
3. Air Issues / MACC / Air Forum / Air Seminar Planning  
Roger Walker
4. Water Issues / CWC / Water Forum / Water Seminar Planning  
Kevin Perry and Roger Walker
5. Hazardous Waste Issues / HWMC / Hazardous Waste Seminar Planning  
Kevin Perry
6. Environmental Justice Issues:  
Roger Walker

## **REGFORM 2023 Executive Committee**

### Officers:

Kimberly Bauman, Mississippi Lime (Chair)  
Dan Wilkus, Evergy (Treasurer)  
Todd Thomas, Altana (Secretary)

### At-Large:

Michael Montgomery, Doe Run  
Dan Hedrick, City Utilities of Springfield  
Aaron Rowland, Nucor Steel  
Steve Donatiello, Spire  
Minh Hoac, BASF

### Past Chair:

Todd Houts, University of Missouri

### Executive Director:

Roger Walker, REGFORM (non-voting)

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