



DNR Response to Fish Kill

Water Protection Program fact sheet

6/2006

In the event of a fish kill, the Department of Natural Resources will take action

A fish kill results when any discharge of contaminants into a water body causes fish to die. While some fish kills occur naturally, many are the result of violations of the Missouri Clean Water Law. To remedy such violations, the department will pursue several actions.

1. The source of the pollution must be fixed. The responsible party must stop any continuing discharge or limit it to amounts allowed by permit.
2. The responsible party must demonstrate that it can prevent such a release from occurring again.
3. The loss of the resources, as well as the state's costs in the investigation, must be paid in cash.
4. The responsible party must pay a penalty for the violation of law.

The Pollution Must Stop

The most immediate concern in any fish kill is to stop what is causing it. The Department of Natural Resources will work with the responsible party to the extent possible to stop the release or condition that is killing the fish. Staff from the Department of Natural Resources and the Department of Conservation will often be present to assess damages and track the response actions of the responsible party. If the release or condition is declared an environmental emergency, the department may order the responsible party to conduct certain activities to end the emergency.

A Repeat Occurrence Must Be Prevented

The Department of Natural Resources will work with the responsible party to prevent the same type of incident from happening again. This may include requiring the responsible party to obtain operator certification or training, obtain a permit, improve facilities or make changes in operation. Much of the department's work is directed toward preventing pollution, and the staff will work with the responsible party to ensure that best management practices, use of proper facilities or other appropriate measures are taken. These measures will usually be itemized and scheduled in a settlement agreement for the fish kill.

Reimbursement is Required

The value of the loss to the state's resources, and the state's costs in the investigation and response, are based on direct costs and are not negotiable. Fish costs are based on estimates made by the Department of Conservation using American Fisheries Society's guidelines. Reimbursement of these costs is considered restitution. Additional damages to resources, such as loss of recreation or other uses, are also considered when evaluating the loss of state's resources.

Penalties are Required

Civil penalties are calculated according to a rule made by the Missouri Clean Water Commission. The exact amount of penalty is negotiable. The Missouri Clean Water Law allows penalties of up to \$10,000 per day of violation.

How the Settlement Process Works

After a fish kill is reported or discovered, staff from the Department of Natural Resources as well as the Department of Conservation or other experts investigate the incident and seek the source of the kill. They work with the responsible party to the extent possible to stop the cause of the fish kill and keep the damage from spreading. If needed, the Department of Natural Resources, in cooperation with other agencies, may invoke emergency powers, such as requiring the construction of temporary containment structures, performing evacuations or issuing consumption advisories. This is to ensure adequate safety measures are taken until the threat has been removed.

Following the end of the incident, the department staff will generally draft a settlement agreement between the state and the responsible party. It will include costs incurred by the state, losses to state resources and remedial or preventative actions to be taken by the responsible party and penalties. The department will not negotiate costs or resource losses. The department may negotiate the timing and details of remedial or preventative actions, as well as the amount and form of penalties. Remedial or preventative actions must be specific and provide significant assurance that a similar incident will not occur again.

If an agreement cannot be reached with the responsible party, the department will request, usually through the Clean Water Commission, that the state pursue a lawsuit through the Attorney General's Office to resolve the matter.

For more information call or write:

Missouri Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, MO 65102-0176
1-800-361-4827 or (573) 751-1300 office
(573) 526-1146 fax
www.dnr.mo.gov/env/wpp Program Home Page