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July 1, 2009

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."

Robin Carnahan
Secretary of State

MISSOURI REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at http://www.sos.mo.gov/adrules/pubsched.asp

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The rules are codified in the *Code of State Regulations* in this system—

Title	*Code of State Regulations*	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 6—Authorized Minimum Wage Rate Reductions

EMERGENCY RULE

8 CSR 30-6.010 Reduction in Minimum Wage Based on Physical or Mental Disabilities

PURPOSE: This rule authorizes a reduction in the hourly wage rate that must be paid to persons employed in St. Louis County through the Summer Work Experience Program operated by the Jobs, Employment, and Supported Services due to physical or mental disabilities that curtail their job opportunities.

EMERGENCY STATEMENT: This emergency rule provides for a reduction of up to ninety cents ($0.90) per hour in the minimum wage that may be paid to persons employed in St. Louis County in 2009 in the Summer Work Experience Program (SWEP) of the Jobs, Employment, and Supported Services, due to the physical or mental disabilities of these persons that impair their earning capacity and curtail their job opportunities. A reduction such as this one is authorized by section 290.515, RSMo Supp. 2008, following a public hearing and promulgation of a regulation by the director.

On May 12, 2009, the Jobs, Employment, and Supported Services requested that the director conduct a public hearing to consider its request for authorization of a subminimum wage for SWEP program participants. Pursuant to this request, the department conducted a public hearing on May 27, 2009, to consider whether a subminimum wage was appropriate. SWEP participants are scheduled to begin work under the program on June 8, 2009. In order for this reduction to take effect for this program, the reduction must be in place immediately. As a result, the Department of Labor and Industrial Relations finds an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest requiring immediate action. A proposed rule, which covers the same material, is published in this issue of the ***Missouri Register****. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the* ***Missouri*** *and* ***United States Constitutions****. The Department of Labor and Industrial Relations believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed June 1, 2009, becomes effective June 11, 2009, and expires December 7, 2009.*

Following consideration of evidence presented at a public hearing, the Department of Labor and Industrial Relations authorizes payment to persons employed in St. Louis County through the Summer Work Experience Program (SWEP), operated by Jobs, Employment, and Supported Services, of hourly wages of ninety cents ($0.90) per hour less than the wage rate applicable under Missouri's Minimum Wage Law, sections 290.500 to 290.530, RSMo. This authorization is based upon the physical or mental disabilities of the individuals employed through SWEP in St. Louis County that have resulted in their impaired earning capacity and curtailed employment opportunities, as established by unchallenged evidence presented at the hearing. The reduction established in this regulation is made with due regard to the department's duty to safeguard the wage rate applicable under Missouri's Minimum Wage Law.

AUTHORITY: section 290.515, RSMo Supp. 2008. Emergency rule filed June 1, 2009, effective June 11, 2009, expires Dec. 7, 2009. A proposed rule covering this same material is also published in this issue of the ***Missouri Register****.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 13—Grants and Loans

EMERGENCY AMENDMENT

10 CSR 60-13.020 Drinking Water Revolving Fund Loan Program. The Safe Drinking Water Commission is amending sections (1) and (2) and adding a new section (6).

PURPOSE: This amendment incorporates the requirements for the implementation of Title VII of the American Recovery and Reinvestment Act of 2009, which authorizes the administrator of the Environmental Protection Agency to make capitalization grants to states for financing State Revolving Fund Programs.

EMERGENCY STATEMENT: The Missouri Department of Natural Resources and the Missouri Safe Drinking Water Commission are authorized to administer state and federal grants and loans to municipalities and political subdivisions for the planning and construction of drinking water facilities and to promulgate and implement regulations to govern the receipt and disbursement of funds for drinking water projects pursuant to Chapter 640, RSMo. The Missouri Department of Natural Resources and the Missouri Safe Drinking Water Commission have a compelling governmental interest in promulgating this emergency amendment to ensure that federal funds can be made available for expenditure in Missouri on a timely basis. Federal funds provided through the American Recovery and

Reinvestment Act (ARRA) of 2009, which was signed by the president on February 17, 2009, must be obligated to drinking water infrastructure projects within one (1) year. Otherwise, unobligated funds will be reallocated to other states. The American Recovery and Reinvestment Act requires that not less than fifty percent (50%) of the capitalization grants that each state receives must be used to provide additional subsidization in the form of principal forgiveness, negative interest loans, grants, or any combination of these. Currently, Missouri's State Revolving Fund (SRF) program regulations do not allow for such subsidies. This emergency amendment must be promulgated to allow timely implementation of this legislation. A permanent rule change, which may not become effective until February of 2010, is also being pursued in order to retain the ability to provide some of these subsidies through the SRF in the future. Further, some communities will be unable to proceed with their drinking water projects without ARRA funding. As a result, the Missouri Department of Natural Resources and Missouri Safe Drinking Water Commission find this emergency amendment necessary to preserve a compelling governmental interest. The promulgation of this emergency amendment is necessary to enable the state to continue to comply with the provisions of Section 1452 of the Safe Drinking Water Act and Title VII of the American Recovery and Reinvestment Act of 2009. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Missouri Department of Natural Resources and Missouri Safe Drinking Water Commission have limited the scope of the emergency amendment to the circumstances creating the emergency, to provide for the expeditious use of the federal funds by providing low interest loans and grants for the construction of drinking water projects and believe that it is fair to all interested persons and parties under the circumstances. This emergency amendment was filed May 20, 2009, becomes effective May 30, 2009, and expires February 25, 2010.*

(1) Application and Eligibility Requirements. This section applies to applicants for loan assistance from the Drinking Water Revolving Fund established in section 640.107, RSMo, as a subfund of the Water and Wastewater Loan Fund. **Recipients of assistance under the American Recovery and Reinvestment Act (ARRA) are subject to the requirements of this regulation, unless otherwise specified.**

(A) Definitions.

1. The terms and definitions in 10 CSR 60-2.015 apply to the rules in this chapter.

2. Additional terms specific to the Drinking Water State Revolving Fund (DWSRF) program are defined in this subsection.

A. ARRA—American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

*[A.]***B.** Binding commitment—A legal obligation by the state to a local recipient that defines the terms and the timing for assistance under the Drinking Water Revolving Fund.

*[B.]***C.** Comprehensive project list—The list of all eligible projects for which applications have been received and evaluated.

*[C.]***D.** Drinking water revolving fund (DWRF)—The drinking water revolving fund for loans established as a subfund of the Water and Wastewater Loan Fund by section 640.107, RSMo. The DWRF shall be maintained and accounted for separately and moneys in the DWRF shall be used only for purposes authorized in the federal Safe Drinking Water Act (SDWA).

*[D.]***E.** Drinking water state revolving fund (DWSRF)—The entire program established under section 1452 of the federal Safe Drinking Water Act (SDWA), which includes DWRF loans and other activities allowed under that section of the SDWA.

*[E]***F.** Equivalency projects—Projects that must total the amount equal to the federal capitalization grants*[,]* and must comply with environmental review requirements and federal cross-cutting authorities.

*[F.]***G.** Fundable list—The list of projects to receive funding during the fiscal year covered by the intended use plan (IUP).

*[G.]***H.** Intended use plan—A document prepared each year that identifies the intended uses of the funds in the DWSRF and describes how those uses support the goals of the DWSRF.

(D) Application Procedures.

1. Application deadline.

A. Applications must be postmarked or received by the Public Drinking Water Program by the calendar date established in the annual application package as the application deadline. The deadline will be no sooner than sixty (60) days after the application package is made available. The department may extend this deadline if insufficient applications are received to use all of the funds expected to be available.

B. Applications for ARRA funding will be accepted upon announcement by the department and must meet program guidance and federal law or regulations as appropriate and applicable.

2. Applicants shall provide:

A. A completed application form provided by the department;

B. Documentation that they have a chief operator certified at the appropriate level, or expect to have prior to loan award;

C. Documentation that they have an emergency operating plan, or expect to have prior to loan award;

D. Any additional information requested by the department for priority point award or project evaluation;

E. Any additional information request by the department to determine the applicant's compliance history and technical, managerial**,** and financial capacity as required under the federal SDWA; and

F. Any additional information for determination of financial capability of the applicant. This may include but is not limited to: changes in economic growth, changes in population growth, depreciation, existing debt, revenues, project costs, and effects of the project on user charge rates.

3. Unsuccessful applicants requesting funds during a given fiscal year who have completed the requirements in this section (1) shall be considered for funding the next fiscal year and need not reapply.

4. By submission of its application, the applicant certifies and warrants that he/she has not, nor will through the DWRF loan amortization period, violate any of his/her bond covenants.

(E) Evaluation and Priority Point Award.

1. Projects will be assigned priority points in accordance with the DWRF loan priority point criteria**, and, in addition, applications seeking ARRA funding shall also be rated in accordance with the ARRA and corresponding guidance**. The department shall annually seek public review and comment on the DWRF loan priority point criteria. The commission shall approve the DWRF loan priority point criteria at least sixty (60) days prior to the annual application deadline.

2. Projects will be listed in the intended use plan in priority order according to the number of priority points assigned to the project. Projects accumulating the same number of total priority points will be ranked using the tie-breaking criteria in the DWRF loan priority point criteria. **In addition, applications seeking ARRA funding shall also be rated in accordance with the ARRA and corresponding guidance.**

3. The department shall prepare and seek public comment on an annual intended use plan that meets or exceeds federal requirements, including the list of proposed projects. The commission may hold one **(1)** or more public meetings or public hearings on the intended use plan for loans. Any applicant aggrieved by his/her standing may appeal to the commission during the public comment process.

4. No DWRF loan assistance shall be provided to a public water system that does not have the technical, managerial, and financial (TMF) capacity to ensure compliance with the federal SDWA, unless the owner or operator of the system agrees to undertake feasible and appropriate changes to ensure that the system has TMF capacity.

5. No DWRF loan assistance shall be provided to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance unless use

of the assistance will ensure compliance.

6. The department may hold a separate competition for projects seeking ARRA funding.

(2) Requirements for Loan Recipients. This section applies to recipients of loans from the Drinking Water Revolving Fund established in section 640.107, RSMo, as a subfund of the Water and Wastewater Loan Fund. The recipient must satisfy more stringent requirements if required to do so by federal, state, or local statutes, policies, rules, ordinances, **guidance,** or orders.

(M) Specifications. The construction specifications must contain the following:

1. Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description, in competitive procurement, shall not contain features which unduly restrict competition unless the features are necessary to test or demonstrate a specific thing or to provide for interchangeability of parts and equipment. The description shall include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use;

2. The recipient shall avoid the use of detailed product specifications if at all possible;

3. When, in the judgment of the recipient, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, recipients may use a brand name or equal description as a means to define the performance or other salient requirements of a procurement. The recipient need not establish the existence of any source other than the named brand. Recipients must state clearly in the specification the salient requirements of the named brand which must be met by offerers;

4. Sole source restriction. A specification shall not require the use of structures, materials, equipment, or processes which are known to be available only from a sole source, unless the department determines that the recipient's engineer has adequately justified in writing to the department that the proposed use meets the particular project's minimum needs;

5. Experience clause restriction. The general use of experience clauses requiring equipment manufacturers to have a record of satisfactory operation for a specified period of time or of bonds or deposits to guarantee replacement in the event of failure is restricted to special cases where the recipient's engineer adequately justifies any such requirement in writing. Where this justification has been made, submission of a bond or deposit shall be permitted instead of a specified experience period. The period of time for which the bond or deposit is required shall not exceed the experience period specified;

6. Domestic products procurement law. In accordance with sections 34.350–34.359, RSMo, the bid documents shall require all manufactured goods or commodities used or supplied in the performance of any contract or subcontract awarded on a loan project to be manufactured, assembled, or produced in the United States, unless obtaining American-made products would increase the cost of the contract by more than ten percent (10%);

7. Bonding. On construction contracts exceeding one hundred thousand dollars ($100,000), the bid documents shall require each bidder to furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition, the bid documents must require the successful bidder to furnish performance and payment bonds, each of which shall be in an amount not less than one hundred percent (100%) of the contract price;

8. State wage determination. The bid documents shall contain the current prevailing wage determination issued by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards, if otherwise required by law;

9. Small, minority, women's, and labor surplus area businesses.

A. The recipient shall take affirmative steps and the bid documents shall require the bidders to take affirmative steps to assure that small, minority, and women's businesses are used when possible as sources of supplies, construction, and services.

B. If the contractor awards subagreements, then the contractor is required to take the affirmative steps in this paragraph (2)(M)9.

C. Affirmative steps shall include the following:

(I) Including qualified small, minority, and women's businesses on solicitation lists;

(II) Assuring that small, minority, and women's businesses are solicited whenever they are potential sources;

(III) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses;

(IV) Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses; and

(V) Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the United States Department of Commerce as appropriate;

10. Debarment/suspension. The recipient agrees to deny participation in services, supplies, or equipment to be procured for this project to any debarred or suspended firms or affiliates in accordance with Executive Order 12549. The recipient acknowledges that doing business with any party listed on the List of Debarred, Suspended, or Voluntarily Excluded Persons may result in disallowance of project costs under the assistance agreement;

11. Right of entry to the project site shall be provided for representatives of the department, Environmental Improvement and Energy Resources Authority (EIERA), and U.S. Environmental Protection Agency so they may have access to the work wherever it is in preparation or progress; *[and]*

12. The specifications must include the following statement: "The owner shall make payment to the contractor in accordance with section 34.057, RSMo*[.]*";

13. Contractors for ARRA-funded projects must comply with the Davis-Bacon Act (40 U.S.C. 276a–276a-7). The current Davis-Bacon wage rate from the United States Department of Labor must be incorporated in the bid documents; and

14. Buy American provision. For ARRA-funded projects, the specifications must include the following statement or a similar statement in accordance with federal guidance: "All iron, steel, and manufactured goods used in this project must be produced in the United States unless a) a waiver is provided to the owner by the Environmental Protection Agency or b) compliance would be inconsistent with United States obligations under international agreements."

(N) Construction Equipment and Supplies Procurement. This section describes the minimum procurement requirements which the recipient must use under the DWRF loan program unless the applicant elects to use the design/build option described in subsection (2)(O) of this rule.

1. Small purchases. A small purchase is the procurement of materials, supplies, and services when the aggregate amount involved in any one (1) transaction does not exceed twenty-five thousand dollars ($25,000). The small purchase limitation of twenty-five thousand dollars ($25,000) applies to the aggregate total of an order, including all estimated handling and freight charges, overhead, and profit to be paid under the order. In arriving at the aggregate amount involved in any one (1) transaction, all items which should properly be grouped together must be included. Department approval and a minimum of three (3) quotes must be obtained prior to purchase.

2. Bidding requirements. This paragraph applies to procurement of construction equipment, supplies, and construction services in excess of twenty-five thousand dollars ($25,000) awarded by the recipient for any project. No contract shall be awarded until the department has approved the formal advertising and bidding.

A. Formal advertising.

(I) Adequate public notice. The recipient will cause adequate notice to be given of the solicitation by publication in newspapers of general circulation beyond the recipient's locality (preferable

statewide), construction trade journals**,** or plan rooms, inviting bids on the project work and stating the method by which bidding documents may be obtained or examined.

(II) Adequate time for preparing bids. A minimum of *[thirty (30)]* **twenty-one (21)** days shall be allowed between the date when public notice, publication, insertion**,** or document availability in a plan room is first published and the date by which bids must be submitted. Bidding documents shall be available to prospective bidders from the date when the notice is first published or provided.

B. Bid document requirements and procedure.

(I) The recipient shall prepare a reasonable number of bidding documents (Invitations for Bids) and shall furnish them upon request on a first-come, first-served basis. The recipient shall maintain a complete set of bidding documents and shall make them available for inspection and copying by any party. The bidding documents shall include, at a minimum:

(a) A completed statement of the work to be performed or equipment to be supplied and the required completion schedule;

(b) The terms and conditions of the contract to be awarded;

(c) A clear explanation of the method of bidding and the method of evaluation of bid prices and the basis and method for award of the contract or rejection of all bids;

(d) Responsibility requirements and criteria which will be employed in evaluating bidders;

(e) The recipient shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening;

(f) If a recipient desires to amend any part of the bidding documents during the period when bids are being prepared, addenda shall be communicated in writing to all firms which have obtained bidding documents in time to be considered before the bid opening time. All addenda must be approved by the department prior to award of the contract;

(g) A firm which has submitted a bid shall be allowed to modify or withdraw its bid before the time of bid opening;

(h) The recipient shall provide for a public opening of bids at the place, date**,** and time announced in the bidding documents. Bids received after the announced opening time shall be returned unopened;

(i) Award shall be to the lowest, responsive, responsible bidder. After bids are opened, the recipient shall evaluate them in accordance with the methods and criteria set forth in the bidding documents. The recipient shall award contracts only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed contract. A responsible contractor is one that has financial resources, technical qualifications, experience, organization**,** and facilities adequate to carry out the contract**,** or a demonstrated ability to obtain these. The recipient may reserve the right to reject all bids. Unless all bids are rejected for good cause, award shall be made to the lowest responsive, responsible bidder. The recipient shall have established protest provisions in the specifications. These provisions shall not include the department as a participant in the protest procedures. If the recipient intends to make the award to a firm which did not submit the lowest bid, the recipient shall prepare a written statement before any award, explaining why each lower bidder was deemed nonresponsible or nonresponsive and shall retain the statements in its files. The recipient shall not reject a bid as nonresponsive for failure to list or otherwise indicate the selection of subcontractor(s) or equipment unless the recipient has clearly stated in the solicitation documents that the failure to list shall render a bid nonresponsive and shall cause rejection of a bid;

(j) The recipient is encouraged though not required to use the model specification clauses developed by the department; and

(k) Departmental concurrence with contract award must be obtained prior to actual contract award. Recipients shall notify the department in writing of each proposed construction contract which has an aggregate value over twenty-five thousand dollars ($25,000). The recipient shall notify the department within ten (10) calendar days after the bid opening for each construction subagreement. The notice shall include:

I. Proof of advertising;

II. Tabulation of bids;

III. The bid proposal from the bidder that the recipient wishes to accept, including justification if the recommended successful bidder is not also the lowest bidder;

IV. Recommendation of award;

V. Any addenda not submitted previously and bidder acknowledgment of all addenda;

VI. Copy of the bid bond;

VII. One (1) set of as-bid specifications;

VIII. Suspension/Debarment Certification;

IX. Revised financial capability worksheet and certification if bids exceed prebid estimates by more than fifteen percent (15%);

X. MBE/WBE Worksheet;

XI. Recipient's statement that proposed contractor(s) positive efforts, MBE/WBE utilization, or both, have been reviewed and meet regulatory requirements;

XII. Site certification, if not previously submitted; and

XIII. For equivalency projects, Certification of Nonsegregated Facilities.

(6) Additional Subsidization. Recipients of financial assistance provided from the ARRA shall meet the applicable federal law, regulation, and guidance applicable to those funds. Additional subsidization may be in the form of forgiveness of principal, negative interest loans, or grants, or any combination of these. The TIR for ARRA-funded projects will initially be calculated as directed in subsection (5)(B) above.

*AUTHORITY: section[s] 640.100***,** ***RSMo Supp. 2008*** *and* ***section*** *640.107, RSMo [Supp.] 2000. Emergency rule filed July 15, 1998, effective July 25, 1998, expired Feb. 25, 1999. Original rule filed Aug. 17, 1998, effective April 30, 1999. For intervening history, please consult the* ***Code of State Regulations****. Emergency amendment filed May 20, 2009, effective May 30, 2009, expires Feb. 25, 2010.*

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register.* If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of Personnel
Chapter 6—Management Training

PROPOSED AMENDMENT

1 CSR 20-6.010 Management Training. The board is amending subsection (1)(A) and sections (2), (5), (8), (11), (12), (13), and (14).

PURPOSE: This amendment fulfills the State Training Advisory Council's responsibility to periodically review the Management Training Rule to ensure the rule continues to meet the mission and needs of state agencies while providing direction for the growth and professional development of state supervisors, managers, and executives.

(1) As used in this rule, unless the context clearly indicates otherwise, the following terms shall mean:

(A) Supervisor, a person directly and immediately responsible for planning, organizing, directing, *[controlling]* **coaching,** and evaluating the work of employees to accomplish a limited function or activity;

(2) **The professional development of supervisors, managers, and executives is of paramount importance to the successful completion of state business. Therefore,** *[E]***e**ach department in state government shall establish programs, systems**,** and procedures, as *[deemed]* necessary to implement**,** *[and]* administer**, and enforce** the *[guidelines and]* standards for training personnel in the positions as defined in this rule. A department may request technical assistance from the Division of Personnel concerning the implementation and administration of the guidelines and standards. A department also may request formal training courses and other management-supervisory training programs from the Division of Personnel or may establish alternative training programs. Each department shall provide training which it requires without cost to its employees. Departments may reimburse employees for additional job-related training courses in accordance with uniform state policies and procedures issued by the Office of Administration and the department's own policies and procedures which are not in conflict and which provide uniform treatment of employees.

(5) Training in any of the **twenty-four (**24**)** competencies will count toward fulfillment of the training rule requirements. **However, to provide a framework for developing a broad spectrum of effectiveness in the areas of supervision, management, organizational development, and leadership, training must be received in more than one (1) competency each year.**

(8) Incumbents in all positions covered in this rule are also required to take a Core Curriculum consisting of *[P]***p**erformance *[M]***m**anagement, *[D]***d**iversity, and *[Preventing Sexual Harassment]* **prevention of unlawful discrimination. Diversity and prevention of unlawful discrimination programs shall be required of incumbents in all positions covered in this rule at least every three (3) years**. The format and time frames of these programs shall be determined by the departments. **STAC will provide guidance to departments regarding the content of these programs as/when needed.** The Core Curriculum can count toward fulfillment of the **forty (**40**)**-hour threshold of the Initial Training. The Core Curriculum will not count toward the **sixteen (**16**)**-hour threshold of continuing Competency Based Training.

(11) *[Following are the top ten competencies at each management level as discovered through the STAC survey process. Division of Personnel training programs will address the top ten competencies at each level.]* **Competencies as identified in this rule will align with the current performance management (appraisal) system prescribed by the Division of Personnel. STAC will be responsible for determining this correlation and providing departments with this information.**

[(A) The top ten competencies for Supervisory positions are Integrity, Written Communication, Accountability, Flexibility, Financial Management, Strategic Thinking, Workforce Management, Verbal Communication, Decisiveness, Computer Literacy and Mentoring (tied);

(B) The top ten competencies for Managerial positions are Integrity, Team-work, Accountability, Self-direction, Mentoring, Problem-solving, Workforce Management, Decisiveness, Flexibility, Verbal Communication;

(C) The top ten competencies for Executive positions are Technical Knowledge, Creative Thinking, Verbal Communication, Decisiveness, Mediating, Mentoring, Problem-solving,

Perceptiveness, Self-direction, Flexibility and Influencing and Team-work (tied).]

(12) The Division of Personnel, within available resources and upon request from a department, shall provide technical assistance concerning the administration of the guidelines for mandatory management training as set out in this rule. The Division of Personnel shall *[design,]* **also** develop and present or otherwise make available formal training courses and other management development programs which *[meet the needs of the top ten competencies for each level as identified in section (10) of this rule]* **address competencies identified in this rule. No department or the Division of Personnel shall be responsible to provide training courses that address all the competencies identified in this rule.**

(13) At least every five **(5)** years STAC will make recommendations to the Personnel Advisory Board regarding the status of the rule, specifically: additions, deletions**,** and substitutions to the provisions of the rule. The results of this review may *[affect a new listing and prioritization of competencies. The results could modify]* **change** the Core Curriculum and competencies listed in this rule. The departments will change their training projections **and programs** according to the results.

(14) Each department shall require employees in positions covered by this rule to successfully demonstrate an ongoing ability to plan, organize, *[control,]* direct, coordinate**,** and evaluate the work activities for which they are responsible and to motivate assigned staff to accomplish organizational objectives. Should the department determine that an individual incumbent in a covered position *[require]* **requires** training in *[one of the competencies not listed in the top ten for that level]* **a competency not identified in this rule**, it is the responsibility of the department to provide that training.

AUTHORITY: section 36.070, RSMo 2000. Original rule filed Oct. 7, 1985, effective Jan. 12, 1986. Amended: Filed Nov. 15, 2000, effective May 30, 2001. Amended: Filed June 1, 2009.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Director of the Division of Personnel, Room 430, Truman Building, 301 W. High Street, Jefferson City, MO 65101. To be considered, comments must be received by August 11, 2009. A public hearing is scheduled for 1:00 P.M., August 11, 2009, in Room 400, Harry S Truman State Office Building, Jefferson City, MO 65101.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 6—Authorized Minimum Wage Rate Reductions

PROPOSED RULE

8 CSR 30-6.010 Reduction in Minimum Wage Based on Physical or Mental Disabilities

PURPOSE: This rule authorizes a reduction in the hourly wage rate that must be paid to persons employed in St. Louis County through the Summer Work Experience Program operated by Jobs, Employment, and Supported Services due to physical or mental disabilities that curtail their job opportunities.

Following consideration of evidence presented at a public hearing, the Department of Labor and Industrial Relations authorizes payment to persons employed in St. Louis County through the Summer Work Experience Program (SWEP), operated by Jobs, Employment, and Supported Services, of hourly wages of ninety cents ($0.90) per hour less than the wage rate applicable under Missouri's Minimum Wage Law, sections 290.500 to 290.530, RSMo. This authorization is based upon the physical or mental disabilities of the individuals employed through SWEP in St. Louis County that have resulted in their impaired earning capacity and curtailed employment opportunities, as established by unchallenged evidence presented at the hearing. The reduction established in this regulation is made with due regard to the department's duty to safeguard the wage rate applicable under Missouri's Minimum Wage Law.

AUTHORITY: section 290.515, RSMo Supp. 2008. Emergency rule filed June 1, 2009, effective June 11, 2009, expires Dec. 7, 2009. Original rule filed June 1, 2009.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Labor Standards, Attn: Carla Buschjost, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

PROPOSED AMENDMENT

10 CSR 20-4.040 State Revolving Fund General Assistance Regulation. The Clean Water Commission is amending sections (1)–(14) and (16)–(19), deleting section (20), and amending and renumbering sections (21)–(25).

PURPOSE: This amendment revises the rule to meet the requirements of Title VII of the American Recovery and Reinvestment Act of 2009 and the U.S. Environmental Protection Agency State Revolving Fund program and provides the flexibility (or opportunity) to offer additional subsidies where allowed under federal law.

(1) Applicability. This rule defines the minimum requirements which apply to all recipients of assistance under the State Revolving Fund (SRF) Program. The recipient must satisfy more stringent requirements, if required to do so by **applicable federal laws, regulations, or guidance and** state or local statutes, policies, rules, ordinances**,** or orders. **Recipients of assistance under the American Recovery and Reinvestment Act of 2009 are subject to the requirements of this regulation, unless otherwise specified.**

(2) Definitions. The definitions of terms for 10 CSR 20-4.040–10 CSR 20-4.050 are contained in 10 CSR 20-2.010 and subsections (2)(A)–*[(R)]***(S)** of this rule.

(A) *[Alternative technologies—Proven wastewater or*

sludge treatment processes which recycle the wastewater or sludge for productive uses or otherwise significantly reduce surface discharges of wastewater or disposal of sludge in landfills. Specifically alternative technologies include, but are not limited to, land application of effluent and sludge, aquaculture, horticulture and methane production.] **ARRA—American Recovery and Reinvestment Act of 2009 (P.L. 111-5).**

[(H) Excessive I/I—I/I may be considered excessive if the average dry weather flow for the system during high groundwater is greater than one hundred twenty (120) gallons per capita per day (gpcd) or the wet weather flows exceed two hundred seventy-five (275) gpcd or wet weather flows result in chronic operational problems which may include surcharging, backups, bypasses and overflows. Only the portion of the I/I which is cost effective to eliminate instead of transport and treat is excessive.]

*[(I)]***(H)** Infiltration/inflow (I/I)—Groundwater or storm water which enters a sanitary sewer system.

*[(J)]***(I)** Initiation of operation—The date when the *[facilities are]* first **construction contract is completed and the constructed component is** capable of being used for *[their]* **its** intended purpose.

[(K) I/A—Innovative/alternative technologies (see Innovative and Alternative).]

*[(L)]***(J)** Innovative technology—Developed wastewater treatment processes and techniques which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of significant reduction in life cycle cost or significant environmental benefits through the reclaiming and reuse of water, otherwise eliminating the discharge of pollutants, utilizing recycling techniques, such as land treatment, more efficient use of energy and resources, improved or new methods of waste treatment management for combined municipal and industrial systems**,** or the confined disposal of pollutants so that they will not migrate to cause water or other environmental pollution.

(K) Intended use plan—A planning document, prepared by the Department of Natural Resources, that identifies the intended uses of available funds.

*[(M)]***(L)** Interceptor sewers—Sewers having the primary purpose of transporting wastewater from collection sewers to a wastewater treatment facility.

(M) Readiness to proceed—The submittal, by the applicant, of a complete engineering report/facility plan and documentation that the applicant has an acceptable debt instrument including any necessary funding commitments from other state and/or federal agencies.

(N) Recipient—The recipient of assistance from programs supported by the Water and Wastewater Loan Fund (WWLF)*[or]***,** the Water and Wastewater Revolving Loan Fund (WWRLF)**, or state bond funds**.

(O) Staff—Staff of the Missouri *[Water Pollution Control Program]* **Department of Natural Resources**.

(P) State Revolving Fund (SRF)—The financial assistance program authorized by Title VI of the Federal Clean Water Act. In Missouri the State Revolving Fund consists of the WWLF, the WWRLF**,** and those accounts secured by funds from the WWLF and the WWRLF. The State Revolving Fund is subject to the requirements, restrictions**,** and eligibilities placed on the State Revolving Fund by the Federal Water Pollution Control Act *[as amended in 1987]*.

(3) Project Selection Process. This section delineates the process by which the commission selects projects for receipt of SRF assistance.

(A) The commission shall hold an annual competition for receipt of SRF assistance. This competition will be structured as follows:

1. Applicants**—**

A. SRF applicants must submit an application as described in section (8) of this rule that must be postmarked or received by the department on or before November 15 prior to the fiscal year for which SRF assistance is being sought. Electronically transmitted applications shall not be accepted. Unsuccessful applicants requesting funds during a given fiscal year shall be considered for funding the next fiscal year and need not reapply. The department may extend this deadline if sufficient applications are not received to use all of the funds expected to be available. Applications received after the deadline may be placed on a *[contigency]* **project** list *[following October 1 of the fiscal year for which SRF assistance is sought]* **as determined by the Clean Water Commission (CWC)**. The projects may subsequently be considered for funding by the *[Clean Water Commission (]*CWC*[)]* if the project is ready to proceed during the fiscal year the project appears *[on]* **in** the *[Indended]* **Intended** Use Plan (IUP);

B. ARRA applicants must submit an application as described in section (8) of this rule. Applications will be accepted upon announcement by DNR and must meet program guidance and federal law or regulations as appropriate and applicable;

2. Applicants that have an outstanding SRF loan balance must be in compliance with the terms and conditions of their loan agreements to be eligible for additional funding;

*[2.]***3.** All qualified applications will be rated and placed on the *[planning]* **appropriate** list in accordance with 10 CSR 20-4.010*[(1)(A)]* **and, in addition, applicants seeking ARRA funding shall also be rated in accordance with the American Recovery and Reinvestment Act of 2009 and corresponding federal guidance**;

*[3.]***4.** The commission will select the highest rated projects**, meeting readiness to proceed criteria,** for SRF assistance from SRF funds anticipated to be available during the upcoming fiscal year;

*[4.]***5.** The commission may hold a separate competition for projects *[eligible under the provisions of subsection (23)(C) of this rule or for projects]* requesting loans with a term of less than three (3) years; and

*[5.]***6.** The commission may hold a separate competition for *[unsewered communities to fund eligible project costs using the point system established under 10 CSR 20-4.010(1)(C).]* **projects seeking funding whenever appropriate and allowed by federal law.**

(B) The commission may direct projects toward specific *[SRF]* **financial** assistance programs contained in 10 CSR 20-4*[.041 and 10 CSR 20-4.042]*. The commission's decisions shall be based upon the amount of *[SRF]* **financial** assistance funds available, the amount of *[SRF]* **financial** assistance funds requested, the size of the project, the credit worthiness of the applicant and the applicant's authority to incur long-term debt.

(4) Target Interest Rate (TIR). *[The TIR for all assistance provided under 10 CSR 20-4.041 shall not be less than thirty percent (30%) of the Twenty-Five Revenue Bond Index published by the Bond Buyers Index of Twenty Bonds rounded to the nearest one-tenth (0.1) of one percent (1%). The department will use the Twenty-Five Revenue Bond Index most recently published prior to the date on which the project assistance is provided. The TIR for all assistance provided under 10 CSR 20-4.042 shall not be less than thirty percent (30%) of the net interest cost of the EIERA bonds or notes issued for this purpose.]* The TIR shall be established by the Missouri Clean Water Commission in consultation with the department and the EIERA based upon current economic factors, projected fund utilization, deposits in the Wastewater Revolving Loan Fund**,** and actual or anticipated federal capitalization grants. *[The Clean Water Commission (CWC) shall not undertake project-by-project revisions.]* **The department will use the Twenty-Five Bond Revenue Index as published in The Bond Buyer (or any successor publication) as the basis for determining the TIR. The**

department reserves the right to refinance, assign, pledge, or leverage any loans originated under this subsection.

(A) The TIR for all assistance provided under 10 CSR 20-4.041, Direct Loan Program, shall not be less than thirty percent (30%) of the weekly Twenty-Five Bond Revenue Index as published in The Bond Buyer (or any successor publication) the week preceding funding, rounded up to the nearest one-hundredth (0.01) of one percent (1%). The commission may reduce the interest rate to meet the needs of the applicant. In order to reduce the interest rate, the commission must determine that unique or unusual circumstances exist. In addition, the commission may reduce the interest rate for projects impacting enterprise zones as authorized under state law.

(B) The TIR for all assistance provided under 10 CSR 20-4.042, Leveraged Loan Program, shall not be less than thirty percent (30%) of the weekly Twenty-Five Bond Revenue Index as published in The Bond Buyer (or any successor publication) the week preceding funding, rounded up to the nearest one-hundredth (0.01) of one percent (1%). The Clean Water Commission (CWC) shall not undertake project-by-project revisions.

(C) A disadvantaged community may receive a further reduction in the TIR as determined by the CWC. A disadvantaged community is defined, for the purpose of reducing the TIR, as an applicant that—

1. Has a population of three thousand three hundred (3,300) or less based on the most recent decennial census;

2. Has a median household income at or below seventy-five percent (75%) of the state average median household income as determined by the most recent decennial census; and

3. Has an average wastewater user charge for five thousand (5,000) gallons that is at least two percent (2%) of the median household income of the applicant.

(D) For projects funded by the ARRA, the Federal Water Pollution Control Act as amended, or any subsequent federal act, additional subsidization (such as principal forgiveness, negative interest loans, grants, or the like) may be provided as federal law requires or allows.

(5) Loan Fees. The department may charge annual loan fees not to exceed one percent (1%) of the outstanding loan balance of each loan provided from the WWLF or the WWRLF**,** except as provided under section (6). These fees *[are intended to reimburse the department for the costs of loan origination, loan servicing and administration of the programs implemented under 10 CSR 20-4.040–10 CSR 20-4.050]* **shall be used in accordance with federal SRF program guidance**.

(6) Additional Administrative Fees Allowed. Additional administrative fees may be assessed by the department at the time the administration fee is calculated for failure by a recipient to submit approved documents to the department (for example, operation and maintenance manuals, *[plan of operation,]* enacted user charge and sewer use ordinances, executed contract documents) in accordance with the time frames provided under the program agreement entered into by the recipient. The additional fee will be an additional one-tenth percent (**0**.1%) per month that the document remains delinquent. The additional fee will be collected only during the year in which the document is not submitted.

(7) General SRF Assistance Requirements. The commission will prioritize potential SRF projects by assigning priority points *[using the formula contained]* in accordance with 10 CSR 20-4.010*[(1)(A)]*.

(A) Municipalities, counties, public sewer or water districts, or both, political subdivisions or instrumentalities of the state and combinations of the same**, or any entity eligible pursuant to the Federal Water Pollution Control Act as amended,** are eligible for SRF assistance. The recipient must demonstrate its legal, institutional, managerial**,** and financial capability to ensure adequate operation and maintenance of the wastewater treatment works throughout the recipient's jurisdiction.

(B) Ownership of facilities, equipment**,** and real property purchased under the program with a **current** value in excess of five thousand dollars ($5,000) may be transferred only with written permission of the department. Transfer of ownership to entities not listed in subsection (7)(A) of this rule will require immediate repayment of assistance.

(C) Assistance under this rule cannot be used for portions of a project receiving a federal construction grant under Title II of the *[federal Clean Water Act]* **Federal Water Pollution Control Act**.

[(D) One (1) year after initiation of operation of the constructed treatment works, the recipient shall certify to the department whether or not the treatment works meet the project performance standards including state operating permit effluent limitations, if applicable. Any statement of noncompliance must be accompanied by a corrective action report containing an analysis of the cause of the project's inability to meet performance standards, and/or state operating permit effluent limitations, actions necessary to bring it into compliance and a reasonably scheduled date for positive certification of the project. Timely corrective action will be executed by the recipient.]

*[(E)]***(D)** Financial Disclosure. Loan applicants shall provide upon request to the department and the EIERA any detailed financial information about the loan applicant as may be required by the commission, the department, the EIERA**,** or its financial or legal consultants to determine the applicant's eligibility for the leveraged loan program.

*[(F)]***(E)** For equivalency projects, the recipient and its contractors must comply with all requirements associated with funds provided under the Federal *[Clean]* Water **Pollution Control** Act. Equivalency projects will be so designated in the annual Intended Use Plan developed in accordance with this rule.

*[(G)]***(F)** *[No loan agreement will be entered into with an applicant which is not in compliance with the monitoring or reporting requirements of a valid National Pollutant Discharge Elimination System (NPDES) permit or which is not properly operating or maintaining an existing system]* **If the department determines that an applicant is in significant noncompliance with a valid National Pollutant Discharge Elimination System (NPDES) permit or Missouri State Operating Permit, the Federal Water Pollution Control Act as amended, the Missouri Clean Water Law as amended, or implementing regulations, then the department may refuse to provide financial assistance to such applicant, or require the applicant to reach a binding agreement regarding corrective actions the applicant will take to address such noncompliance**.

(8) Application Requirements. Applicants must submit a completed application form *[and any financial information requested by the department]* **including the information listed in subsections (8)(A)–(C)** to be included on the Intended Use Plan*[, a planning document prepared by the state]*. **Potential applicants are strongly encouraged to meet with department staff prior to submitting an application.** *[In addition, the documents listed in subsections (8)(A)–(C) must be submitted when requested by the department.]*

(B) *[A completed Detailed Financial Information Sheet in the form provided by the department]* **The most recent financial statement**; and

(9) Facility Planning. All facility plans must be in accordance with accepted engineering practices and the current Waste Treatment Design Guide 10 CSR 20-8. *[Projects designated in the Intended Use Plan as equivalency projects must meet the requirements established by the Federal Water Pollution Control Act as amended in 1987.]*

(A) Requirements for all projects are as follows:

1. The most reasonable environmentally sound and implementable waste management alternatives must be studied and evaluated. Proposed waste treatment management plans and practices shall provide for the most cost-effective technology that can treat wastewater and *[nonexcessive]* I/I to meet the current 10 CSR 20-7.015 Effluent Regulations, **and** 10 CSR 20-7.031 Water Quality Standards. *[Equivalency projects must also provide for BPWTT.]* The requirement for cost-effectiveness may be waived by the department for *[nonequivalency]* projects upon *[a]* showing that the project provides environmentally preferable benefits, for example sludge utilization, water reuse**,** or reduction;

2. An estimate of the average user charge including documentation *[of]* **for** the basis of the estimate;

3. An assessment of the environmental conditions and impact of the proposed project on the environment is required. The environmental review process and **associated** public notice requirements are contained in 10 CSR 20-4.050. Additional public participation requirements are outlined in subsections (14)(A) and (B);

(B) *[Requirements applicable to equivalency projects only are as follows:*

1. Innovative and alternative wastewater treatment processes and techniques must be adequately studied and evaluated by the recipient;

2. An I/I analysis which indicates whether the sewer system is affected by excessive I/I must be performed and, if so, an analysis, which determines the cost-effective solution to the excessive I/I must be included;

3. A description of recreational and open space opportunities in the planning area must be included;

4. The project shall be consistent with the approved elements of any applicable water quality management plan under sections 205(j), 208, 303(e), 319 and 320 of the Federal Water Pollution Control Act as amended in 1987;

5. Projects over ten (10) million dollars must provide a multidisciplined engineering review of plans and specifications as required by section 218 of the Federal Water Pollution Control Act as amended in 1987. The department may require a value engineering study for projects under ten (10) million dollars; and

6. An assessment of the environment conditions and impact of the proposed project on the environment is required. The environmental review process and public notice requirements are contained in 10 CSR 20-4.050. Additional public participation requirements are outlined in subsections (14)(A) and (B). This requirement was deleted from paragraph (9)(A)3. and moved to paragraph (9)(B)6. It now applies to fewer projects than it did before.] **Applicants that do not propose to employ a full time operator, forty (40) hours per week, must evaluate passive or easy to operate treatment alternatives before considering a mechanical activated sludge package plant. Passive or easy to operate alternatives may include, but are not limited to, enhanced natural systems, submerged fixed film systems, sand filters, and recirculating pea gravel filters.**

(C) Projects over five (5) million dollars are encouraged to provide a multidisciplined engineering review of plans and specifications.

(D) Projects are encouraged to utilize energy and water conservation technologies.

(10) Additional Preclosing Requirements.

(B) Final Document Submittal. Documents listed in paragraphs (10)(B)1.–*[6.]***8.** must be submitted and approved by the department:

1. Resolution identifying the authorized representative by name. Applicants for assistance under the SRF shall provide a resolution by the governing body designating a representative authorized to file the application for assistance, reimbursement requests**,** and act in behalf of the applicant in all matters related to the project;

2. Plans and specifications certified by a registered professional engineer licensed in Missouri;

3. Draft engineering contract as described in section (12);

4. Draft user charge ordinance as described in section (17);

5. Draft sewer use ordinance as described in section (17);

6. Proposed project schedule. The following represents the minimum requirements for the project schedule:

A. Construction start defined as date of issuance of notice to proceed;

B. Construction completion;

C. Initiation of operation; and

D. Project completion;

7. Certification of easements and real property acquisition. Recipients of assistance under the SRF shall have obtained title or option to the property or easements or condemnation proceedings initiated for the project prior to award of a loan; and

8. Other information or documentation deemed necessary by the applicant or the department to ensure the proper expenditure of state funds.

(11) Accounting and Audits. Applicants are required to have a dedicated source for repayment of any loans and an adequate financial management system and audit procedure for the project which provides efficient and effective accountability and control of all property, funds**,** and assets related to the project. The applicant's financial system is subject to state or federal audits to assure fiscal integrity of public funds.

(A) Each recipient is expected to have an adequate accounting system for the project which provides efficient and effective accountability and control of all property, funds**,** and assets.

1. The recipient is responsible for maintaining a financial management system which will adequately provide for an accurate, current**,** and complete disclosure of the financial results of each *[SRF]* **loan** project. **The proprietary fund (business-related fund)** *[A]***a**ccounting *[for project funds]* will be in accordance with generally accepted government accounting principles and practices, *[consistently applied,]* regardless of the source of funds.

2. An acceptable accounting system includes books and records showing all financial transactions related to the construction project. The system must document all receipt and disbursement transactions. It also must group them by type of account (for example, asset, revenue, expense, etc.) and by individual expense account (for example, personnel salaries and wages, subcontract costs, etc.).

A. The recipient shall maintain books, records, documents**,** and other evidence and accounting procedures and practices, sufficient to reflect properly the amount, receipt**,** and disposition by the recipient for all assistance received for the project and the total costs of the project of whatever nature incurred for the performance of the project for which the assistance was awarded. Some of the minimum standards for an adequate accounting system are—

(I) The accounting system should be on a double entry basis with a general ledger in which all transactions are recorded in detail or in summary from subordinate accounts;

(II) Recording of transactions pertaining to the construction project should be all inclusive, timely, verifiable**,** and supported by documentation;

(III) The system must disclose the receipt and use of all funds received in support of the project;

(IV) Responsibility for all project funds must be placed with either a project manager or trust agent;

(V) Responsibility for accounting and control must be segregated from project operations. The accounting system and related procedures should be documented for consistent application;

(VI) The **proprietary fund must use the modified accrual or** accrual basis of accounting *[is strongly recommended for construction projects]* as it provides an effective measure of costs and expenditures;

(VII) Inventories of property and equipment should be maintained in subordinate records controlled by the general ledger and should be verified by physical inventory at least biennially;

(VIII) The accounting system must identify all project costs and differentiate between eligible and ineligible costs;

(IX) Accounts should be set up in a way to identify each organizational unit, function**,** or task providing services to the construction project;

(X) An important project management objective of the system is the derivation of information regarding actual versus budgeted costs by project task and performing organization; and

(XI) Financial reports should be prepared monthly to provide project managers with a timely, accurate status of the construction project and costs incurred.

(B) **Annual** Audits. *[The recipient must comply with the provisions of 2OMB Circular A-128 governing the audit of state and local government.]*

1. The recipient shall request an audit of the system for the preceding fiscal year to be made by a certified public accountant or firm of certified public accountants employed for that purpose.

A. The annual audit will cover in reasonable detail the operation of the proprietary system during the fiscal year.

B. Within one hundred eighty (180) days after the end of the recipient's fiscal year, a copy of the annual report will be submitted to the department.

C. Annual audits shall be required as long as the recipient is in loan repayment status.

2. As required by federal law, the recipient must comply with the provisions of OMB Circular A-133 governing the audit of state and local governments.

A. OMB Circular A-133 states if the recipient receives five hundred thousand dollars ($500,000) or more in the aggregate during any fiscal year from disbursements from federal sources, including the SRF program, the recipient will complete an audit of its system records for the fiscal year.

B. A copy of the recipient's annual audit, including all written comments and recommendations of the accountant, will be furnished to the department within the time period as provided in OMB Circular A-133.

(12) Architectural or Engineering Contracts. The following represents the minimum requirements for the architectural or engineering contracts:

(B) The nature, scope**,** and extent of work to be performed during construction should include, but not be limited to, the following:

[1. Preparing a plan of operation if required by the department and as defined in subsection (24)(A);]

*[2.]***1.** Preparing an operation and maintenance manual if required by the department and as defined in subsection *[(24)(B)]* **(23)(A)**;

*[3.]***2.** Assisting the recipient in bid letting;

*[4.]***3.** Assisting the recipient subdivision in reviewing and analyzing construction bids and making recommendations for award; **and**

*[5.]***4.** Inspecting during construction to ensure conformance with the construction contract documents unless waived by the department*[; and]***.**

[6. Assisting with facility operation for purposes of one (1)-year certification.]

(13) Procurement of Engineering Services. *[It is the policy of the commission that contracts for architectural, engineering and land surveying services be negotiated on the basis of demonstrated competence, qualifications for the type of services required and at fair and reasonable prices. The procedures listed in subsections (13)(B) and (C) are contained in sections 8.285–8.291, RSMo. These procurement requirements apply unless the applicant elects to use the design/build option described in section (20).*

(A) Use of the Same Architect or Engineer During Construction. If the recipient is satisfied with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for the project and wishes to retain that firm or individual during construction of the project, it may do so without further public notice and evaluation of qualifications, provided the recipient selected the firm using, at a minimum, the procedures outlined in subsections (13)(B) and (C) of this rule.

(B) Whenever a project requiring architectural, engineering or land surveying services is proposed, the recipient shall evaluate current statements of qualifications and performance data of prequalified firms on file together with those that may be submitted by other firms regarding the proposed project. In evaluating the qualifications of each firm, the recipient shall use the following criteria:

1. The specialized experience and technical competence of the firm with respect to the type of services required;

2. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

3. The past record of performance of the firm with respect to those factors as control of costs, quality of work and ability to meet schedules; and

4. The firm's proximity to and familiarity with the area in which the project is located.

(C) Negotiation of a Contract.

1. The recipient shall list three (3) highly qualified firms. The recipient shall then select the firm considered best qualified and capable of performing the desired work and attempt to negotiate a contract for the project with the firm selected.

2. For a basis of negotiations the recipient shall prepare a written description of the scope of the proposed services.

3. If the recipient is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The recipient shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with the firm shall be terminated. The recipient shall then undertake negotiations with the third qualified firm.

4. If the recipient is unable to negotiate a contract with any of the selected firms, the recipient shall reevaluate the necessary architectural, engineering or land surveying services, including the scope of services and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of subsections (13)(B) and (C).] **The procurement of engineering services shall be in accordance with sections 8.285 through 8.291, RSMo.**

(14) Public Participation. The public must be allowed an opportunity to exchange ideas with the applicant during project development. Public participation must be preceded by timely distribution of information and must occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action. At a minimum, the recipient must provide the opportunities for public participation described in the following:

(B) Prior to approval of the draft user charge ordinance, a public *[meeting]* **hearing, in accordance with section 250.233, RSMo,** shall be conducted to specifically address the proposed user charge rates. Public notice of the *[meeting should]* **hearing shall** be published at least thirty (30) days prior to the meeting date. The recipient shall prepare a transcript, recording**,** or other complete record of the proceeding and submit it to the department and make it available at no more than cost to anyone who requests it. A copy of the record should be available for public review; and

(16) Intermunicipal Agreements. Prior to closing, if the project serves two (2) or more public entities, the applicant shall submit executed agreements or contracts between the public entities for the financing, construction, and operation of the proposed treatment facilities. At a minimum, the agreement or contract will include:

(B) The formula by which the costs are allocated; *[and]*

(C) The manner in which the costs are allocated*[.]***;**

(D) The life of the agreement, which shall be, at a minimum, for the term of the loan;

(E) The method for resolution or arbitration of disputes;

(F) The procedure for amending or renegotiating the agreement;

(G) The enforcement authority; and

(H) The effective date of the agreement.

(17) User Charge and Sewer-Use Ordinance. Recipients are required to maintain, for the useful life of the treatment works, user charge and sewer-use ordinances approved by the department. User charge and sewer-use ordinances, at a minimum, shall be adopted prior to financing and implemented by the initiation of operation of the financed wastewater treatment works. A copy of the enacted ordinance must be submitted prior to initiation of operation.

(A) The user charge system must be designed to produce adequate revenues required for the operation and maintenance, including a reserve for equipment replacement. A one hundred ten percent (110%) debt service reserve may be required. *[It]* **The sewer user rate for operation and maintenance, including replacement,** shall be proportional and based upon actual use. Each user charge system must include an adequate financial management system that will accurately account for revenues generated by the system, debt service, and loan fee costs and expenditures for operation and maintenance, including replacement based on an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy, and administration. The user charge system shall provide that the costs of operation and maintenance for all flow not directly attributable to users be distributed equally among the users. The system shall provide for an annual review of charges. A user charge system shall be adopted by all political subdivisions receiving service from the recipient.

(B) Low Income Residential User Rates.

1. Recipients may establish lower user charge rates for low income residential users after providing for public notice and hearing, in accordance with section 250.233, RSMo. The criteria used to determine a low income residential user must be clearly defined.

2. The costs of any user charge reductions afforded a low income residential class must be proportionately absorbed by all other user classes. The total revenue for operation and maintenance (including equipment replacement) of the facilities, and debt retirement must not be reduced as a result of establishing a low income residential user class.

*[(B)]***(C)** The sewer-use ordinance shall prohibit any new connections from inflow sources into the treatment works and require that new sewers and connections to the treatment works are properly designed and constructed. The ordinance also shall require that all wastewater introduced into the treatment works not contain toxic or other pollutants in amounts or concentrations that endanger public safety and physical integrity of the treatment works; cause violation of effluent or water quality limitations; preclude the selection of the most cost-effective alternative for wastewater treatment and sludge disposal; or inhibit the performance of a pretreatment facility. The ordinance shall require all users to connect to the system within ninety (90) days of service availability.

(18) Specifications. The construction specifications must contain the features listed in the following:

(C) When in the judgment of the recipient it is impractical or uneconomical to make a clear and accurate description of the technical requirements, recipients may use a brand name *[or equal description]* as a means to define the performance or other salient requirements of *[a procurement]* **an item to be procured**. The recipient need not establish the existence of any source other than the named brand. Recipients must state clearly in the specification the salient requirements of the named brand which must be met by offerers **and that other brands may be accepted**;

(I) Contractors for *[equivalency]* **ARRA-funded** projects must comply with the Davis-Bacon Act (40 U.S.C. 276a–276a-7). The current Davis-Bacon wage rate from the United States Department of Labor must be incorporated in the bid documents;

(J) Small, Minority, Women's, and Labor Surplus Area Businesses. The recipient shall take affirmative steps and the bid documents shall require the bidders to take affirmative steps to assure that small, minority, and women's businesses are used when possible as sources of supplies, construction, and services. Affirmative steps shall include the following:

1. Including qualified small, minority, and women's businesses on solicitation lists;

2. *[Assuring]* **Ensuring** that small, minority, and women's businesses are solicited whenever they are potential sources;

3. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses;

4. Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses;

5. Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the United States Department of Commerce as appropriate; and

6. If the contractor awards subagreements, requiring the subcontractor to take the affirmative steps in paragraphs (18)(J)1.–5. of this rule;

(L) Right of entry to the project site must be provided for representatives of the Missouri Department of Natural Resources, Clean Water Commission, and the EIERA so they may have access to the work wherever it is in preparation or progress. Proper facilities must be provided for access and inspections; *[and]*

(M) The specifications must include the following statement: "The owner shall make payment to the contractor in accordance with section 34.057, RSMo."**; and**

(N) Buy American Provision. For ARRA-funded projects, the specifications must include the following statement or a similar statement in accordance with federal guidance: "All iron, steel, and manufactured goods used in this project must be produced in the United States unless a) a waiver is provided to the owner by the Environmental Protection Agency or b) compliance would be inconsistent with United States obligations under international agreements."

(19) Construction Equipment and Supplies Procurement. This section describes the minimum procurement requirements which the recipient must use under the SRF program *[unless the applicant elects to use the design/build option described in section (20)]*.

(A) Small Purchases. A small purchase is the procurement of materials, supplies, and services when the aggregate amount involved in any one (1) transaction does not exceed *[twenty-five]* **one hundred** thousand dollars (*[$25,000]* **$100,000**). The small purchase limitation of *[twenty-five]* **one hundred** thousand dollars (*[$25,000]* **$100,000**) applies to the aggregate total of an order, including all estimated handling and freight charges, overhead, and profit to be paid under the order. In arriving at the aggregate amount involved in any one (1) transaction, all items which should properly be grouped together must be included. Department approval and a minimum of three (3) quotes must be obtained prior to purchase.

(B) Bidding Requirements. This subsection applies to procurement of construction equipment, supplies, and construction services in

excess of *[twenty-five]* **one hundred** thousand dollars (*[$25,000]* **$100,000**) awarded by the recipient for any project. No contract shall be awarded until the department has approved the formal advertising and bidding.

1. Formal advertising.

A. Adequate public notice. The recipient will cause adequate notice to be given of the solicitation by publication in newspapers of general circulation beyond the recipient's locality (preferably statewide), construction trade journals**,** or plan rooms, inviting bids on the project work and stating the method by which bidding documents may be obtained or examined.

B. Adequate time for preparing bids. A minimum of *[thirty (30)]* **twenty-one (21)** days shall be allowed between the date when public notice, publication, insertion**,** or document available in a plan room is first published or provided and the date by which bids must be submitted. Bidding documents shall be available to prospective bidders from the date when the notice is first published or provided. **Recipients are encouraged to directly solicit bids from prospective bidders.**

2. Bid document requirements and procedure.

[A.] The recipient shall prepare a reasonable number of bidding documents (invitations for bids) and shall furnish them upon request on a first-come, first-served basis. The recipient shall maintain a complete set of bidding documents and shall make them available for inspection and copying by any party. The bidding documents shall include, at a minimum:

*[(I)]***A.** A complete*[d]* statement of the work to be performed or equipment to be supplied and the required completion schedule;

*[(II)]***B.** The terms and conditions of the contract to be awarded;

*[(III)]***C.** A clear explanation of the method of bidding and the method of evaluation of bid prices and the basis and method for award of the contract or rejection of all bids;

*[(IV)]***D.** Responsibility requirements and criteria which will be employed in evaluating bidders;

*[(V)]***E.** The recipient shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening;

*[(VI)]***F.** If a recipient desires to amend any part of the bidding documents during the period when bids are being prepared, addenda shall be communicated in writing to all firms which have obtained bidding documents in time to be considered before the bid opening time. All addenda must be approved by the department prior to award of the contract;

*[(VII)]***G.** A firm which has submitted a bid shall be allowed to modify or withdraw its bid before the time of bid opening;

*[(VIII)]***H.** The recipient shall provide for a public opening of bids at the place, date**,** and time announced in the bidding documents. Bids received after the announced opening time shall be returned unopened;

*[(IX)]***I.** Award shall be to the lowest, responsive, responsible bidder.

*[(a)]***(I)** After bids are opened, the recipient shall evaluate them in accordance with the methods and criteria set forth in the bidding documents.

*[(b)]***(II)** The recipient shall award contracts only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed contract. A responsible contractor is one that has financial resources, technical qualifications, experience, organization**,** and facilities adequate to carry out the contract or a demonstrated ability to obtain these. The recipient may reserve the right to reject all bids. Unless all bids are rejected for good cause, award shall be made to the low, responsive, responsible bidder, the recipient shall have established protest provisions in the specifications. These provisions shall not include the department as a participant in the protest procedures.

*[(c)]***(III)** If the recipient intends to make the award to a firm which did not submit the lowest bid, the recipient shall prepare a written statement before any award, explaining why each lower bidder was deemed nonresponsible or nonresponsive and shall retain the statements in its files.

*[(d)]***(IV)** The recipient shall not reject a bid as nonresponsive for failure to list or otherwise indicate the selection of subcontractor(s) or equipment unless the recipient has clearly stated in the solicitation documents that the failure to list shall render a bid nonresponsive and shall cause rejection of a bid;

*[(X)]***J.** The recipient is encouraged though not required to use the model specification clauses developed by the department; and

*[(XI)]***K.** Departmental concurrence with contract award must be obtained prior to actual contract award. Recipients shall notify the department in writing of each proposed construction contract which has an aggregate value over *[twenty-five]* **one hundred** thousand dollars (*[$25,000]* $**100,000**). The recipient shall notify the department within ten (10) calendar days after the bid opening for each construction subagreement. The notice shall include:

*[(a)]***(I)** Proof of advertising;

*[(b)]***(II)** Tabulation of bids;

*[(c)]***(III)** The bid proposal from the bidder that the recipient wishes to accept, including justification if the recommended successful bidder is not also the lowest bidder;

*[(d)]***(IV)** Recommendation of award;

*[(e)]***(V)** Any addenda not submitted previously and bidder acknowledgment of all addenda;

*[(f)]***(VI)** Copy of the bid bond **or bid guarantee**;

*[(g)]***(VII)** One (1) set of as-bid specifications;

*[(h)]***(VIII)** Suspension/Debarment Certification;

*[(i)]***(IX)** *[Revised financial capability worksheet and certification if bids exceed prebid estimates by more than fifteen percent (15%)]* **Certification that the recipient has the necessary funds to complete the project if bids exceed available loan funding**;

*[(j)]***(X)** MBE/WBE Worksheet;

*[(k)]***(XI)** Recipient's statement that proposed contractor(s) positive efforts, MBE/WBE utilization, or both, have been reviewed and meet regulatory requirements; **and**

*[(l)]***(XII)** Site certification, if not previously submitted**.***[; and*

(m) For equivalency projects, Certification of Nonsegregated Facilities.]

[(20) Design Build Projects. Applicants may elect to use the design/build method of procuring design and construction services in lieu of the procurement methods described in section (13) of this rule.

(A) Additional Application Requirements. In addition to the application requirements listed in sections (9) and (10) of this rule, the applicant must provide the department with the documents listed in the following:

1. A legal opinion of the applicant's counsel stating that the design/build procurement method is not in violation of any state or local statutes, charters, ordinances or rules pertaining to the applicant; and

2. A bid package that is sufficiently detailed to ensure that the bids received for the design/build work are complete, accurate, comparable and will result in the most cost-effective operable facility which meets the design requirements of 10 CSR 20-8. The prebid package shall contain, at a minimum, the clauses discussed in subsections (18)(F)–(I) of this rule.

(B) Bidding Procedures. Bidding shall be conducted in accordance with the procedures described in subsection (19)(B) of this rule.

(C) Contract Type. Design/build contracts shall be lump sum contracts for the cost associated with design and construction. No increases to contract price for design and construction services shall be permitted. Recipients are encouraged to incorporate facility operations into the contract.

When included in the contract, the cost of operations for an established time period may be included in the criteria for evaluating bids and selecting the lowest, responsible, responsive bidder.

(D) Review and Oversight. The recipient shall procure engineering services to oversee the design work performed by the design/build contractor and to provide resident inspection of construction. The department may require the recipient to submit plans, specifications and documentation during design and construction as necessary to ensure that the facility meets state standards for design and construction.

(E) Department Approvals and Permits. Prior to construction start, the recipient must obtain approval of the construction plans and specifications and obtain a construction permit from the department.]

*[(21)]***(20)** Changes in Contract Price or Time. The contract price or time may be changed only by a change order. The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by the methods set forth in the following:

(A) Unit Prices.

1. Original bid items. Unit prices previously approved are acceptable for pricing changes of original bid items. However, when changes in quantities exceed fifteen percent (15%) of the original bid quantity and the total dollar change of that bid item is greater than twenty-five thousand dollars ($25,000), the recipient shall review the unit price to determine if a new unit price should be negotiated.

2. New items. Unit prices of new items shall be negotiated;

(B) A lump sum to be negotiated; and

(C) Cost Reimbursement. The actual cost for labor, direct overhead, materials, supplies, equipment**,** and other services necessary to complete the work plus an amount to cover the cost of general overhead and profit.

*[(22)]***(21)** Progress Payments to Contractors.

(A) It is the commission's policy that recipients should make prompt progress payments to prime contractors and prime contractors should make prompt progress payments to subcontractors and suppliers for eligible construction, supplies**,** and equipment costs.

1. For purposes of this section, progress payments are defined as follows:

A. Payments for work in place; and

B. Payments for materials or equipment which have been delivered to the construction site or which are stockpiled in the vicinity of the construction site in accordance with the terms of the contract, when conditional or final acceptance is made by or for the recipient. The recipient shall assure that items for which progress payments have been made are adequately insured and are protected through appropriate security measures.

(B) Appropriate provisions regarding progress payments must be included in each contract and subcontract.

(C) Retention from Progress Payments. The recipient may retain a portion of the amount otherwise due the contractor. The amount the recipient retains shall be in accordance with section 34.057, RSMo.

*[(23)]***(22)** Classification of Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under programs supported by *[the SRF]* **this regulation**.

(A) General. All project costs will be eligible if they meet the following tests:

1. Reasonable and cost effective;

2. Necessary for the construction of an operable wastewater facility including required mitigation; and

3. Meet the eligibility limitations of the Federal Water *[Quality]* **Pollution Control** Act *[of 1987]* **as amended**.

(B) Eligible Costs. Eligible costs include, at a minimum:

1. Engineering services and other services incurred in planning and in preparing the design drawings and specifications for the project. These services and their related expenses can be reimbursed based on actual invoices to be submitted after loan closing *[or by means of an allowance]*. For invoice reimbursement, the department must have a copy of the executed engineering contract for planning and design of the project*[. Allowance reimbursement for these services will be based on a percentage of the total eligible construction contract amount at bid opening plus land, equipment, materials and supplies identified or referenced in the approved facility plan, Finding of No Significant Impact or Categorical Exclusion as determined from Table 1 or 2 (as applicable). For phased or segmented projects, incremental allowance calculations and corresponding reimbursements may be made.*

Table 1—Maximum Eligible Amount for Facilities Planning and Design

Construction Cost	*Allowance as a Percentage of Construction Cost**
$ 100,000 or less	*14.49*
$ 120,000	*14.11*
$ 150,000	*13.66*
$ 175,000	*13.36*
$ 200,000	*13.10*
$ 250,000	*12.68*
$ 300,000	*12.35*
$ 350,000	*12.08*
$ 400,000	*11.84*
$ 500,000	*11.46*
$ 600,000	*11.16*
$ 700,000	*10.92*
$ 800,000	*10.71*
$ 900,000	*10.52*
$ 1,000,000	*10.36*
$ 1,200,000	*10.09*
$ 1,500,000	*9.77*
$ 1,750,000	*9.55*
$ 2,000,000	*9.37*
$ 2,500,000	*9.07*
$ 3,000,000	*8.83*
$ 3,500,000	*8.63*
$ 4,000,000	*8.47*
$ 5,000,000	*8.20*
$ 6,000,000	*7.98*
$ 7,000,000	*7.81*
$ 8,000,000	*7.66*
$ 9,000,000	*7.52*
$ 10,000,000	*7.41*
$ 12,000,000	*7.22*
$ 15,000,000	*6.99*
$ 17,500,000	*6.83*
$ 20,000,000	*6.70*
$ 25,000,000	*6.48*
$ 30,000,000	*6.31*
$ 35,000,000	*6.17*
$ 40,000,000	*6.06*
$ 50,000,000	*5.86*
$ 60,000,000	*5.71*
$ 70,000,000	*5.58*
$ 80,000,000	*5.47*
$ 90,000,000	*5.38*
$100,000,000	*5.30*
$120,000,000	*5.16*

$150,000,000	*4.99*
$175,000,000	*4.88*
$200,000,000	*4.79*

** Interpolate between values*

Table 2 Maximum Eligible Amount
Design Only

Construction Cost	*Allowance as a Percentage of Construction Cost**
$ 100,000 or less	*8.57*
$ 120,000	*8.38*
$ 150,000	*8.16*
$ 175,000	*8.01*
$ 200,000	*7.88*
$ 250,000	*7.67*
$ 300,000	*7.50*
$ 350,000	*7.36*
$ 400,000	*7.24*
$ 500,000	*7.05*
$ 600,000	*6.89*
$ 700,000	*6.77*
$ 800,000	*6.66*
$ 900,000	*6.56*
$ 1,000,000	*6.43*
$ 1,200,000	*6.34*
$ 1,500,000	*6.17*
$ 1,750,000	*6.05*
$ 2,000,000	*5.96*
$ 2,500,000	*5.80*
$ 3,000,000	*5.67*
$ 3,500,000	*5.57*
$ 4,000,000	*5.48*
$ 5,000,000	*5.33*
$ 6,000,000	*5.21*
$ 7,000,000	*5.12*
$ 8,000,000	*5.04*
$ 9,000,000	*4.96*
$ 10,000,000	*4.90*
$ 12,000,000	*4.79*
$ 15,000,000	*4.67*
$ 17,500,000	*4.58*
$ 20,000,000	*4.51*
$ 25,000,000	*4.39*
$ 30,000,000	*4.29*
$ 35,000,000	*4.21*
$ 40,000,000	*4.14*
$ 50,000,000	*4.03*
$ 60,000,000	*3.94*
$ 70,000,000	*3.87*
$ 80,000,000	*3.81*
$ 90,000,000	*3.75*
$100,000,000	*3.71*
$120,000,000	*3.63*
$150,000,000	*3.53*
$175,000,000	*3.46*
$200,000,000	*3.41*

** Interpolate between values*

Note: These tables shall not be used to determine the compensation for facilities planning or design services. The compensation for facilities planning or design services should be based upon the nature, scope and complexity of the services required by the community];

2. The cost of subagreements for building those portions of the project which are for treatment of wastewater, correction of *[excessive]* I/I**,** or for new interceptor sewers;

3. The reasonable cost of engineering services incurred during the building and initial operation phase of the project to ensure that it is built in conformance with the design drawings and specifications. A registered professional engineer licensed in Missouri or a person under the direction and continuing supervision of a registered professional engineer licensed in Missouri must provide inspection of construction for the purpose of assuring and certifying compliance with the approved plans and specifications. Eligible construction phase and initial operation phase service are limited to—

A. Office engineering;

B. Construction surveillance;

C. Stakeout surveying;

D. As-built drawings;

E. Special soils/materials testing;

F. Operation and maintenance manual;

G. Follow-up services and the cost of start-up training for operators of mechanical facilities constructed by the project to the extent that these costs are incurred prior to this department's final inspection. Costs shall be limited to on-site operator training tailored to the facilities constructed or on- or off-site training may be provided by the equipment manufacturer if this training is properly procured;

H. User charge and sewer-use ordinance; and

I. Plan of operation;

4. Demolition costs. The reasonable and necessary cost of demolishing publicly owned WWTF's which are no longer utilized for wastewater collection, transportation**,** or treatment purposes. **The reasonable and necessary cost of demolishing privately-owned WWTF's which will be eliminated or replaced by a publicly-owned treatment works if the proposed elimination was addressed in the approved facility plan.** Generally, these costs will be limited to the demolition and disposal of the structures, **removal and disposal of biosolids,** final grading and seeding of the site;

5. Change orders and the costs of meritorious contractor claims for increased costs under subagreements as follows:

A. Within the allowable scope of the project;

B. Costs of equitable adjustments due to differing site conditions; and

C. Settlements, arbitration awards and court judgments which resolve contractor claims shall be allowable only to the extent that they are not due to the mismanagement of the recipient;

6. Costs necessary to mitigate only direct, adverse, physical impacts resulting from building of the treatment works;

7. The costs of site screening necessary to comply with environmental studies and facilities' plans or necessary to screen adjacent properties;

8. The cost of groundwater monitoring facilities necessary to determine the possibility of groundwater deterioration, depletion**,** or modification resulting from building the project;

9. Equipment, materials**,** and supplies.

A. The cost of a reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations and laboratory items necessary to conduct tests required for plant operation.

B. Cost of shop equipment installed at the treatment works necessary to the operation of the works.

C. The costs of necessary safety equipment, provided the equipment meets applicable federal, state, local**,** or industry safety requirements.

D. The costs of mobile equipment necessary for the operation of the overall wastewater treatment facility, transmission of wastewater or sludge**,** or for the maintenance of equipment. These items include:

(I) Portable standby generators;

(II) Large portable emergency pumps to provide pump-around capability in the event of pump station failure or pipeline breaks;

(III) Trailers and other vehicles having as their purpose the transportation, application, or both, of liquid or dewatered sludge or septage; and

(IV) Replacement parts identified and approved in advance;

10. Costs of royalties for the use of or rights in a patented process or product with the prior approval of the department;

11. Land or easements when used as an integral part of the treatment process. *[For equivalency projects, l]***L**and must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended. Certification by the recipient of compliance under this Act is required;

12. The cost of I/I correction, other than normal maintenance costs, and treatment works capacity adequate to transport and treat *[nonexcessive]* I/I;

13. Purchase of a private wastewater system*[s]*, provided the project will eliminate or upgrade the existing facilities;

14. Force account work for construction oversight and engineering planning and design. If force account is used for planning and design, all engineering services during construction must be provided through force account;

15. The cost of preparing an environmental impact statement if required under 10 CSR 20-4.050;

16. Nonpoint source projects as identified in the most current Missouri Nonpoint Source Management Plan;

17. Construction permit application fees, costs of issuance, capitalized interest, *[EIERA application fees,]* and contracted project administration costs; *[and]*

18. Debt service reserve deposits*[.]***;**

[(C) Governor's Reserve (Equivalency Funds). The federal Clean Water Act has provided the commission with the authority to make recommendations to the governor to allocate up to twenty percent (20%) of the WWLF to use for other types of wastewater facilities not listed in paragraph (23)(B)2. of this rule. These facilities include:]

*[1.]***19.** Collector sewers provided that they meet the requirements of either—

A. For major rehabilitation or replacement of collection sewers that are needed to assure the total integrity of the system; or

B. New collector sewers for existing communities where sufficient treatment capacity exists or adequate treatment will be available when collectors are completed;

*[2.]***20.** Correction of combined sewer overflows; *[and]*

*[3.]***21.** House laterals if they lie within the public easement and will be maintained by the loan recipient*[.]***; and**

22. Storm water transport and treatment systems, and nonpoint source best management practices.

*[(D)]***(C)** Noneligible costs include, but are not limited to:

1. The cost of ordinary site and building maintenance equipment such as lawnmowers and snowblowers;

2. The cost of general purpose vehicles for the transportation of the recipient's employees;

3. Costs allowable in paragraph *[(23)]***(22)**(B)11. that are in excess of just compensation based on the appraised value or amount determined in condemnation;

4. Ordinary operating expenses of the recipient including salaries and expenses of elected and appointed officials, preparation of routine financial reports and studies, **EIERA application fees,** and the state operating permit fees or other such permit fees necessary for the normal operation of the constructed facility;

5. Preparation of applications and permits required by federal, state**,** or local regulations or procedures;

6. Administrative, engineering**,** and legal activities associated with the establishment of special departments, agencies, commissions, regions, districts**,** or other units of government;

7. Personal injury compensation or damages arising out of the project;

8. Fines and penalties due to violations of, or failure to comply with, federal, state**,** or local laws, regulations**,** or procedures;

9. Costs outside the scope of the approved project;

10. Costs for which grant or loan payment**s** have been or will be received from another state or federal agency;

11. Force account work except that listed in paragraph *[(23)]***(22)**(B)14.; and

12. Costs associated with acquisition of easements and land except that listed in paragraph *[(23)]***(22)**(B)11., unless and until Congress determines otherwise.

*[(24)]***(23)** Operation and Maintenance.

[(A) Plan of Operation.

1. If required by the department, the recipient of assistance for construction of mechanical facilities must make provision satisfactory to the department for the development of a plan of operation designed to assure operational efficiency be achieved as quickly as possible. A plan of operation must be submitted by fifty percent (50%) construction completion and approved by ninety percent (90%) construction completion.

2. The recipient will ensure that the schedule of tasks as outlined in the approved plan of operation is implemented and completed in accordance with the schedules and prior to final inspection of the project. Plan of operations must be approved by the official project start-up date.]

*[(B)]***(A)** Operation and Maintenance Manual. The recipient must make provision satisfactory to the department for assuring effective operation and maintenance of the constructed project throughout its design life. If required by the department, recipients of assistance for construction of mechanical facilities must develop an operation and maintenance manual**. The operation and maintenance manual, if required, must be submitted by eighty percent (80%) construction completion** *[in accordance with the following paragraphs:*

1. A draft operation and maintenance manual must be submitted by fifty percent (50%) construction completion;

2. The recipient must make provision satisfactory to the department to develop for approval an operation and maintenance manual in accordance with departmental guidelines; and

3. At ninety percent (90%) construction, the final operation and maintenance manual must be approved].

*[(C)]***(B)** Start-Up Training. At fifty percent (50%) construction completion, a start-up training proposal (if required) and proposed follow-up services contract must be submitted. This contract must be approved by ninety percent (90%) construction completion.

*[(D)]***(C)** Wastewater Operator. The recipient must make provision satisfactory to the department for assuring that qualified wastewater operator and maintenance personnel are hired in accordance with an approved schedule. Qualified personnel shall be those meeting the requirements established under 10 CSR 20-9.020.

*[(25)]***(24)** Retention of Records. This section describes the minimum record retention requirements for recipients of *[SRF]* **financial** assistance.

(A) Construction-Related Activities. The recipient must retain all financial, technical**,** and administrative records related to the planning, design**,** and construction of the project for a minimum period of four (4) years following receipt of the final construction payment from *[SRF]* **the** associated **financial** assistance or the recipient's acceptance of construction, whichever is later. Records shall be available to state, federal officials, or both, for audit purposes during normal business hours during that period.

(B) Post-Construction Financing Activities. The recipient must retain all financial and administrative records related to post-construction project financing for a minimum period of four (4) years following full repayment of any assistance on the *[SRF]* project.

*[(26)]***(25)** Conflict of Interest. No employee, officer**,** or agent of the recipient shall participate in the selection, award**,** or administration of a subagreement supported by state or federal funds if a conflict of interest, real or apparent, would be involved.

(A) This conflict would arise when—

1. Any employee, officer**,** or agent of the recipient, any member of their immediate families or their partners have a financial or other interest in the firm selected for a contract; or

2. An organization which may receive or has been awarded a subagreement employs, or is about to employ, any person under paragraph *[(26)]***(25)**(A)1.

(B) The recipient's officers, employees**,** or agents shall neither solicit nor accept gratuities, favors**,** or anything of substantial monetary value from contractors, potential contractors**,** or other parties to subagreements.

*AUTHORITY: sections 644.026, **644.101, and 644.121,** RSMo Supp. 2008. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 28, 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Water Protection Program, Douglas A. Garrett, PO Box 176, Jefferson City, MO 65102. Comments may be sent through e-mail to doug.garrett@dnr.mo.gov. Public comments must be received by September 9, 2009. A public hearing is schedule at a meeting of the Clean Water Commission to be held at 9:00 p.m., September 2, 2009, at the University Plaza Hotel, 333 John Q Hammons Parkway, Springfield, Missouri 65806.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 50—General

PROPOSED AMENDMENT

15 CSR 30-50.010 Definitions. The commissioner is amending subsection (1)(G), adding new subsection (1)(J), renumbering subsections (1)(J)–(1)(L), and deleting subsection (1)(M).

PURPOSE: This amendment changes the term "National Association of Securities Dealers" and "NASD" to "Financial Industry Regulatory Authority" and "FINRA" respectively.

(1) When the terms listed in this rule are used in the Missouri Securities Act of 2003 (the Act), these rules, the forms**,** and the orders of the commissioner, the following meanings shall apply (unless the context otherwise requires), together with those which may later appear to the extent that they are not inconsistent with definitions provided in Chapter 409, RSMo:

(G) CRD System means the NASAA/*[NASD]***FINRA** Central Registration Depository;

(J) FINRA means the Financial Industry Regulatory Authority;

*[(J)]***(K)** IARD System means the NASAA/SEC Investment Adviser Registration Depository;

*[(K)]***(L)** Investment adviser qualifying officer means an officer designated by the investment adviser as responsible for supervision of investment adviser representatives associated with the investment adviser, or if the investment adviser is a natural person or partnership, the person or partner responsible for supervision of investment adviser representatives;

*[(L)]***(M)** Isolated, for the purpose of section 409.2-202(1) of the Act, means standing alone, disconnected from any other transactions;

[(M) NASD means the National Association of Securities Dealers, Inc.;]

*AUTHORITY: section 409.6-605, RSMo Supp. [2003] **2008**. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 21, 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Matthew Kitzi, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 50—General

PROPOSED AMENDMENT

15 CSR 30-50.030 Fees. The commissioner is amending subsections (1)(B) and (1)(C).

PURPOSE: This amendment changes the term "National Association of Securities Dealers" and "NASD" to "Financial Industry Regulatory Authority" and "FINRA" respectively.

(1) General Provisions.

(B) Fees shall be remitted by check, draft**,** or money order (cash is not acceptable) payable to the Missouri Secretary of State, or**,** if the application is submitted through the Central Registration Depository (CRD) System or Investment Adviser Registration Depository (IARD) System, fees shall be remitted by check or wire transfer to the financial institution designated by the *[National Association of Securities Dealers (NASD)]* **Financial Industry Regulatory Authority (FINRA)**.

(C) Fees paid with applications filed through the CRD System, the IARD System, or other electronic system approved by the commissioner may be sent by wire transfer or mail to *[NASD Regulation, Inc]* **FINRA**.

*AUTHORITY: sections 409.3-302, 409.3-305(b), 409.4-410, 409.6-605, and 409.6-606(c), RSMo Supp. [2004] **2008**. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 21, 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Matthew Kitzi, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

PROPOSED AMENDMENT

15 CSR 30-51.030 Examination Requirement. The commissioner is amending sections (1) and (3) and paragraph (2)(B)1.

PURPOSE: This amendment changes the term "National Association of Securities Dealers" and "NASD" to "Financial Industry Regulatory Authority" and "FINRA" respectively.

(1) Every applicant for registration as a broker-dealer, agent, investment adviser, or investment adviser representative shall pass the written examinations required by the *[National Association of Securities Dealers (NASD),]* **Financial Industry Regulatory Authority (FINRA)** and this rule.

(2) The following examinations are required for the following applicants:

(B) Specialized Agent of a Broker-Dealer or Issuer Agent Application. Specialized agents of broker-dealers or issuers are required to take and pass:

1. The applicable *[NASD]* **FINRA** examination; and
2. Either the Series 63 or the Series 66 examination.

(3) Waiver of Examination Requirement for Broker-Dealer Agents. The commissioner may by order grant an agent registration to an applicant that has not complied with the examination requirements set forth in 15 CSR 30-51.030(2) if granting the registration is in the public interest and the applicant is able to demonstrate exceptional experience in and knowledge of the securities markets and applicable regulations, or the broker-dealer agent has taken and passed the previous equivalent of the required examination and has been previously registered as a broker-dealer agent with *[the NASD]* **FINRA**. For agents of *[NASD]* **FINRA** members, unless a proceeding under section 409.4-412, RSMo, has been instituted, a waiver of the examination requirement by *[the NASD]* **FINRA** shall be deemed a waiver by the commissioner.

AUTHORITY: section[s] ***536.025, RSMo 2000 and sections*** *409.4-412(a) and 409.6-605, RSMo Supp. [2003]* ***2008****. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed May 21, 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Matthew Kitzi, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

PROPOSED AMENDMENT

15 CSR 30-51.171 Supervision Guidelines for Broker-Dealers. The commissioner is amending subsection (2)(A).

PURPOSE: This amendment changes the term "National Association of Securities Dealers" and "NASD" to "Financial Industry Regulatory Authority" and "FINRA" respectively.

(2) The following guidelines shall be factors in considering what is reasonable supervision, whether:

(A) The firm has established current procedures and systems for supervising the activities of agents, employees, and Missouri office operations that are reasonably designed to achieve compliance with applicable state and federal securities laws and regulations, and, if applicable, the rules of the *[National Association of Securities Dealers (NASD)]* **Financial Industry Regulatory Authority (FINRA)**;

AUTHORITY: sections 409.4-412(d)(9) and 409.6-605, RSMo Supp. [2003] ***2008****. Original rule filed Jan. 23, 2004, effective July 30, 2004. Amended: Filed May 21, 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Matthew Kitzi, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 53—Sales and Advertising Literature

PROPOSED AMENDMENT

15 CSR 30-53.010 Promotional Materials To Be Filed, Permitted Without Filing and Prohibited. The commissioner is amending subsection (3)(C).

PURPOSE: This amendment changes the term "National Association of Securities Dealers" and "NASD" to "Financial Industry Regulatory Authority" and "FINRA" respectively.

(3) The following forms and types of advertising are permitted without the necessity for filing or prior authorization by the commissioner, unless specifically prohibited:

(C) Unless requested by the commissioner pursuant to subsection (1)(C) of this rule, sales literature, advertising**,** or market letters prepared in conformity with the applicable regulations and in compliance with the filing requirements of the Securities and Exchange Commission (SEC), the *[National Association of Securities Dealers (NASD)]* **Financial Industry Regulatory Authority (FINRA)** or an approved securities exchange;

AUTHORITY: sections 409.2-201(7), 409.2-203, 409.3-303, 409.3-304, 409.5-501, 409.5-504, ***and*** *409.6-605, RSMo Supp. [2003]* ***2008****. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed May 21, 2009.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Matthew Kitzi, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 59—Registration and Operations of Commodity Broker-Dealers and Sales Representatives

PROPOSED AMENDMENT

15 CSR 30-59.010 Definitions. The commissioner is amending subsection (1)(K).

PURPOSE: This amendment changes the term "National Association of Securities Dealers" and "NASD" to "Financial Industry Regulatory Authority" and "FINRA" respectively.

(1) When the terms listed in subsections (1)(A)–(Q) are used in sections 409.800–409.863, RSMo, this chapter of rules, the forms**,** and the orders of the commissioner issued under sections 409.800–409.863, RSMo (1986) and this chapter of rules, the following meanings shall apply (unless the context requires otherwise), to the extent that they are not inconsistent with definitions provided in sections 409.800–409.863, RSMo:

(K) *[NASD means the National Association of Securities Dealers, Inc.]* **FINRA means the Financial Industry Regulatory Authority**;

AUTHORITY: sections 409.836 ***and 536.025****, RSMo [1986]* ***2000****. Emergency rule filed Oct. 2, 1985, effective Oct. 12, 1985, expired Feb. 9, 1986. Original rule filed Aug. 22, 1986, effective Jan. 30, 1987. Amended: Filed May 21, 2009*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Matthew Kitzi, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE
Division 100—Missouri Agricultural and Small Business Development Authority
Chapter 2—Beginning Farmer Loan Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Agricultural and Small Business Development Authority under section 348.432, RSMo Supp. 2008, the authority amends a rule as follows:

2 CSR 100-2.020 Applicant Eligibility Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 16, 2009 (34 MoReg 592). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 100—Missouri Agricultural and Small Business Development Authority
Chapter 2—Beginning Farmer Loan Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Agricultural and Small Business Development Authority under section 348.432, RSMo Supp. 2008, the authority amends a rule as follows:

2 CSR 100-2.030 Time and Manner of Filing Application **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 16, 2009 (34 MoReg 592–593). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 100—Missouri Agricultural and Small Business Development Authority
Chapter 2—Beginning Farmer Loan Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Agricultural and Small Business Development Authority under section 348.432, RSMo Supp. 2008, the authority amends a rule as follows:

2 CSR 100-2.040 Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 16, 2009 (34 MoReg 593–594). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 100—Missouri Agricultural and Small Business Development Authority
Chapter 10—New Generation Cooperative Incentive Tax Credit Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Agricultural and Small Business Development Authority under section 348.432, RSMo Supp. 2008, the authority amends a rule as follows:

2 CSR 100-10.010 Description of Operation, Definitions, and Method of Distribution and Repayment of Tax Credits **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 16, 2009 (34 MoReg 595). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission rescinds a rule as follows:

3 CSR 10-5.375 Resident Cable Restraint Permit **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2009 (34 MoReg 831). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 6—Wildlife Code: Sport Fishing: Seasons, Methods Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-6.550 Other Fish **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 831). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.410 Hunting Methods **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 831–832). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.425 Squirrels: Seasons, Limits **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 832). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 8—Wildlife Code: Trapping: Seasons, Methods

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-8.510 Use of Traps **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 832). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 8—Wildlife Code: Trapping: Seasons, Methods

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-8.515 Furbearers: Trapping Seasons **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 832–834). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.110 General Prohibition; Applications **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 834). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 834–835). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.442 Falconry **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 835–836). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.565 Licensed Hunting Preserve: Privileges **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 836). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-11.110 General Provisions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 836–837). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-11.155 Decoys and Blinds **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 837). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-11.160 Use of Boats and Motors **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009

(34 MoReg 837–838). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-11.180 Hunting, General Provisions and Seasons **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 838). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for Department Areas

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-11.186 Waterfowl Hunting **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 838). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **March 1, 2010**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.110 Use of Boats and Motors **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 838–839). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.115 Bullfrogs and Green Frogs **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 839–840). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.125 Hunting and Trapping **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 840). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective **July 1, 2009**.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.135 Fishing, Methods **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 840–841). No changes have been made in the text of the

proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.140 Fishing, Daily and Possession Limits **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 841). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.145 Fishing, Length Limits **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2009 (34 MoReg 841–842). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250, 386.266, and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.162 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 3, 2009 (34 MoReg 187–196). A second notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 16, 2009 (34 MoReg 595–605). Relevant portions of those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The first public comment period ended March 4, 2009, and a public hearing on the proposed rule was held March 4, 2009. The second public comment period ended April 15, 2009, and a second public hearing was held the same day. Timely written comments were received from Union Electric Company d/b/a AmerenUE, the Missouri Industrial Energy Consumers (MIEC), the Public Counsel (OPC), and the staff of the Missouri Public Service Commission. In addition, Lena Mantle and Mark Oligschlaeger on behalf of the staff, Ryan Kind on behalf of OPC, and Mark C. Birk on behalf of AmerenUE testified at the hearing on March 4, 2009, and counsel to the commenters made substantive verbal comments at the hearing. Counsel for the Missouri Industrial Energy Consumers and for AmerenUE also offered comments at the April 15 hearing. The testimony and comments both opposed and supported the adoption of the rule, and both opponents and supporters of the rule made specific recommendations for changes in the language and operation of the rule. Consumers and consumer groups opposed the rule; electric companies and the commission staff supported the rule.

COMMENT #1 (Public Interest): AmerenUE agrees with the commission's finding that these rules are necessary and with the commission's statement that, in the current economic climate, these rules are necessary. Timely recovery of investment capital will be essential to financing environmental upgrades to existing power plants and hastening compliance with government mandates designed to improve the quality of the environment for all Missourians. With the exception of AmerenUE's technical correction to the proposed rule, it finds the rule as proposed to be acceptable.

Staff believes that the presence of an Environmental Cost Recovery Mechanism (ECRM) is consistent with the public interest, because one presumes that the state legislature acts in the broad public interest. Staff takes the position that the presence of an ECRM is neutral to ratepayers. However, if used properly, it may operate to improve capital flows or certainly cash flow, which could be translated into a benefit in ratemaking terms. It is possible to track or monitor a benefit to ratepayers of an ECRM, but staff notes that it would be very difficult to do.

In response to questions, staff commented that it supported adoption of the rule although the commission already allows a surcharge for infrastructure replacement. Staff opines that those procedures are not adequate to address the issues dealt with in an ECRM, in that the infrastructure replacement rules do not apply to both increases and decreases, and deal only with capital expenditures.

MIEC notes that section 386.266, RSMo Supp. 2008, provides the authority for the commission to promulgate regulations to implement, and that are consistent with, that section. The legislature could have simply authorized utilities to implement an ECRM but instead granted the commission discretion, under specific parameters, to authorize or withhold an ECRM.

OPC believes that, as presently proposed by the commission, the rule is not consistent with the public interest.

RESPONSE: The commission remains convinced that these rules are in the public interest. Other filings made by Missouri electric utilities to this commission indicate that those utilities are in the process of spending hundreds of millions, possibly billions, of dollars to comply with new and proposed federal regulations. These regulations are a tool that can be used by the commission to help the company install new environmental upgrades while maintaining access to the capital markets to fund other necessary or desirable infrastructure investments and to do so in a manner that could ultimately lower costs to

the ratepayer. Accordingly, with the exception of specific proposed changes, which are dealt with elsewhere in this order, these comments do not necessitate any change.

COMMENT #2 (Overearning): Staff believes that the rule creates a potential for a utility to earn more than its authorized rate of return. Staff does not believe that the ECRM creates any greater potential for overearning than another type of surcharge, such as a fuel adjustment clause. Absent the surcharge, the utility has to manage all of its costs and all of its revenues. To isolate a portion of operations and allow rate increases, if that portion's expenses increase, removes down-side risk. Therefore, the possibility to overearn is enhanced. However, staff notes that the inclusion of capital expenditure in an ECRM will not necessarily mean that a utility is overearning, even without any sharing mechanism, because to determine whether a utility is overearning, the commission must review all the operations, all its costs with a return on investment, taxes, and all operating expenses and compare that with revenues to determine whether operations generate an appropriate return. The commission will do this in a general rate proceeding in which an ECRM is sought. Although staff believes this review is precluded between the rate cases, staff believes that the surveillance data will significantly assist in its monitoring and reviewing process and notes that the cap of two and one-half percent (2.5%) would serve to limit any overearnings, if they exist. Staff notes that it still is able to file a complaint if it believes a company is overearning.

OPC responds that a significant short-coming of the complaint process is the statutory limitation of potential complainants. Complainants face a resource-intensive undertaking and must begin it with limited information to predict the success of its efforts. Only staff has sufficient resources to mount an earnings complaint. Workload considerations can prevent or delay a complaint and limit the investigation. The surveillance provisions of the rule may help determine when a complaint may be justified, but will not supply sufficient data and other resources necessary to successfully prosecute a complaint. Moreover, if the ECRM does lead to overearning, the utility will keep excess earnings generated between the time the overearning is discovered and the complaint is resolved. Further, there is no statutory time limit in which to decide a complaint case, so this creates an incentive to delay. In such a situation, customers bear both the risk of increasing and volatile costs and the risk of funding excess earnings without the possibility of refund.

MIEC asserts that the statute was intended to strike a balance between the interests of utilities and of consumers. MIEC agrees with both OPC and staff that the legislature did not intend to create a mechanism for utilities to overearn. However, MIEC believes the proposed rules tip the scale in favor of utilities. In MIEC's view, it is possible under the rules that an overearning utility will receive additional revenues under an ECRM, contrary to legislative intent. MIEC's proposed changes are designed to allow utilities to receive additional revenues for environmental costs only when necessary to achieve the authorized rate of return.

OPC also asserts that SB 179's creators clearly contemplated that the commission would protect consumers in its ECRM rules. While the law enhances a utility's ability to increase revenues, it does not alter fundamental "rate of return" regulation. The proposed rule allows the utility to protect and enhance its interests by deferring costs during a period of over-earning to a subsequent period. The proposed rules would allow utilities to manipulate their earnings to the detriment of the public. The utility has too much control over the timing of rate cases, filings under the rule, placing plant in service, and other matters. The proposed rules fail to safeguard consumers to the detriment of the public, without any cost of service justification.

Although AmerenUE conceded that it is possible for a utility to earn more than its authorized rate of return while an ECRM is in place, given the magnitude of the environmental investments that utilities face, along with other cost and revenue issues that are tracked closely by this commission, it is highly unlikely. AmerenUE noted that the statute's purpose is to give a utility an opportunity to earn a fair return. At any given snapshot in time, the utility may earn more or less than that. The fact that a utility at a moment in time earns over its authorized return does not mean its rates are unjust and unreasonable or that it is overearning. The statute does not attempt to prevent any circumstance where the utility at a given point could earn less or more than its authorized return. True overearning is systemic earnings so much in excess of the utility's cost of capital (which can change from the time of the rate case) from what was authorized, based on normalized conditions, that rates become unjust and unreasonable. It is not earning greater than the authorized return at a given moment.

OPC proposes that to guard against earnings in excess of the authorized rate of return, the commission should implement an "earnings test." According to OPC, any ECRM that would pass through environmental costs to ratepayers while the utility earns in excess of its authorized rate would abrogate the commission's obligations to ratepayers. The proposed rule requires the commission to find that an ECRM provides the opportunity to earn a fair rate of return whenever it decides to continue or modify an ECRM the utility has requested be discontinued. This same determination is just as necessary when the commission decides to implement an ECRM in the first place, but it is not required in the rule. Effectively, ratepayers have less ability to challenge the implementation of an ECRM than to challenge a commission decision to modify or continue an ECRM.

AmerenUE notes that staff has said that there will be a study of a company's earnings in the general rate proceeding that establishes an ECRM, but that staff is precluded from doing such a study between rate cases. AmerenUE asserts that this is the same conclusion reached by the commission in refusing to include similar earnings tests proposed by OPC and others in the fuel adjustment clause (FAC) rulemaking proceedings.

RESPONSE: Use of the ECRM must be authorized by the commission inside a rate case where the commission reviews all revenue and expenses. In the event the commission authorizes an ECRM, the commission has the ability to track all of those revenues and expenses, and to take action accordingly. Therefore, the commission finds that the proposed rules do not necessarily cause utilities to overearn, and if a utility does overearn, there are sufficient remedies available. With the exception of specific proposed changes, which are dealt with elsewhere in this order, these comments do not necessitate any change.

COMMENT #3 (Effect on Environmental Projects): AmerenUE does not believe that the presence of an ECRM will necessarily accelerate the completion of environmental projects. Environmental projects to be completed are regulatory requirements imposed on the utilities. The ECRM will allow utilities to meet those environmental requirements and still have access to necessary capital to invest in and maintain other plant assets over and above the environmental assets. The rule is designed to allow utilities to most effectively install environmental projects that are required. Without the rule, the environmental projects will be installed, but access to additional capital to perform other needed maintenance and equipment upgrades on the other plant will not exist. Other potential projects that will enhance reliability on existing generating that are not mandated will suffer.

AmerenUE notes that while the rule is not necessary to enforce environmental obligations, not having it may lead to higher costs to install environmental projects. If a utility is required to install environmental equipment, ultimately those costs will be passed on to ratepayers. Being able to recover those costs more quickly can lead to a lower overall cost for the installation of mandated equipment.

As to the timely completion of environmental projects, although staff does not believe that more will be completed, some may be completed earlier than they would have otherwise. If an ECRM is approved, it could be used as a tool by the utilities if they determine

that early implementation is a benefit to both the consumers and the company. In some cases, based on available labor, steel prices, etc., it may be beneficial for environmental equipment to be added early.

OPC has no reason to believe that the rule will accelerate the completion of environmental projects or that the rule will encourage more environmental projects than would otherwise occur.

RESPONSE: The commission finds that it is not necessary for the rule to operate in a way that will accelerate or enhance the completion of environmental projects. It is enough that this rule has the ability to assist companies faced with large capital spending programs and lower the cost of financing projects of this nature, which will be of benefit to the company and the ratepayers. No change will be made as a result of this comment.

COMMENT #4 (Consumer Safeguards): Staff commented at length on the process of roundtables and other group efforts that created the draft ECRM rules and how the proposed ECRM relates to other rate adjustment mechanisms. As to safeguards in the rule, staff noted that electric utilities will only be permitted to request an ECRM in a general rate proceeding where all relevant expenses, revenues, and rate base items are considered. Parties to that proceeding can propose variations or alternative methodologies/mechanisms or can oppose the ECRM. The commission may approve, modify, or reject any proposed ECRM. An ECRM cannot remain in effect for longer than four (4) years without a new general rate proceeding and modification or extension of the ECRM.

OPC believes the proposed rules do not contain adequate consumer protections and do not adequately ensure that utilities will act prudently with respect to environmental expenditures. It is reasonable to assume the legislature would only have granted the commission authority to allow an ECRM in the belief that the commission's rules would protect ratepayers. Regulatory procedures should address the needs of both ratepayers and utilities (safe and adequate service at just and reasonable rates that provide a utility an opportunity to earn a fair rate of return). The rules should apply incentives to the utility, so it makes necessary environmental investments economically and so it operates those facilities reasonably. Timelines should be set out in the rule to ensure ratepayers are not faced with unreasonably large rate increases.

OPC opines that an ECRM shifts the risk of changes in the cost of environmental compliance from the utility to its customers and that this shift removes incentives for utilities to exercise due diligence and to develop and implement prudent environmental compliance strategies. This greatly changes the regulatory paradigm in Missouri, which has fostered low rates while maintaining reasonable returns for investors. Adequate consumer protections must be added to the proposed rules to compensate for the shifting risk, if the commission is to adequately perform its statutory duties. The allowance of an ECRM is not mandatory, but the proposed rules do not provide any guidance for determining whether an ECRM is appropriate. A "threshold test" of the necessity of an ECRM for the utility to earn its authorized return is needed, and should assess the likelihood the ECRM would cause it to overearn. The utility must be required to submit adequate financial data, accessible to all parties in the rate case, as part of its application.

MIEC agrees that it is crucial that consumer protections be included in the rule, rather than being left to rate cases. Key principles should be included in the rules, because industrial consumers must be allowed to plan for their impact. Providing protections in the rules ensures predictability for consumers and utilities alike and leads to fair application of the rules.

MIEC asserts that although section 386.266, RSMo, does authorize the commission to grant ECRMs, the statute is replete with consumer protections, such as the prudence requirement, the two and one-half percent (2.5%) annual cap, the ECRM creation rate case requirement, the "fair return" finding, the annual true-up, the no longer than four (4)-year rate case cycle, and regular prudence reviews. Failure to adhere to these consumer protections could render such an ECRM unlawful.

AmerenUE and staff are of the opinion that the consumer protections contained in SB 179 are already in the proposed rules.

RESPONSE: The commission finds that the necessary consumer protections, including the several consumer protections reflected in section 386.266, RSMo, are already contained in the rule and are sufficient. No change will be made as a result of this comment.

COMMENT #5 (Sharing Mechanisms): OPC advocates for a process to align the interests of ratepayers and shareholders. OPC would change language to allow approval of an ECRM that allows recovery of "some or all" of the costs, to provide an incentive mechanism in which the utility could only collect, ninety or ninety-five percent (90 or 95%) of the change in environmental costs. In addition, OPC would include a new section that specifically aligns the interests of ratepayers and shareholders, similar to performance-based language in the fuel adjustment clause rules. OPC remains skeptical that an ECRM could ever benefit ratepayers. For there to be a benefit, positive aspects would need to overcome the large detriment created by a flow-through mechanism for cost recoveries. The proposed rule, without the additional consumer protections OPC proposes, would be detrimental to ratepayers.

OPC believes that a financial incentive (gains or losses) is a critical consumer protection. To pass through one hundred percent (100%) of the cost significantly diminishes any incentive to prudently manage the annual cost of environmental compliance and to minimize long-run costs. Regulators cannot review transactions in real time, as the utility does. The utility should have to justify recovery of environmental compliance costs in a prudence review subsequently, using information gleaned during the recovery period. The electric industry is highly complex. A "fix" in one area can cascade through the rest of the system. A regulatory model that does not recognize this fact is inferior.

Staff counters that section 386.266, RSMo, allows incentives for rate adjustment mechanism, but there is no similar statutory provision for incentives for ECRMs. Section 386.266, RSMo, restricts the annual amount of revenue collected by an ECRM to not more than two and one-half percent (2.5%) of the revenues of the electric utility but allows the electric utility to defer costs not recovered as a result of this restriction. The language in the rule mirrors the language in the statute.

RESPONSE: The commission finds that staff is correct, in that subsection 1 of section 386.266, RSMo, which deals with rate adjustment mechanisms for fuel and purchased power costs, contains language permitting incentive plans, but subsection 2, pertaining to environmental cost recovery, does not. Subsection 8, cited by OPC in its comments, does not provide authority for incentive mechanisms; rather it states in part, "This subsection shall not be construed to authorize or prohibit any incentive- or performance-based plan." No change will be made as a result of this comment.

COMMENT #6 (Eligible Costs): Staff envisions that both capital expenditures and associated items that are normally expensed would be recoverable through an ECRM, the larger portion of which would be the capital expenditures. As to truly one (1)-time expenses, if the expense qualified for the adjustment, it would be put in then come out in subsequent true-up periods.

Staff has not compiled a list of items to be included or not included in an ECRM and does not recommend that the rule further define "federal, state, or local environmental law, regulation, or rule." The commission should determine in the proceeding in which an ECRM is established or modified exactly what costs are prudently incurred to comply with a "federal, state, or local environmental law, regulation, or rule" and should be recovered in an ECRM. This issue was discussed at length in the workshops on the rule, but the participants found it difficult to define without being either too broad or too restrictive. Staff concludes that it is best left to the discretion of the commission. For example, a utility might purchase a higher-priced

coal to meet environmental requirements, but not have a fuel adjustment clause. There may be an argument that the higher-priced coal should not be in an environmental cost mechanism but would be more properly reflected in a fuel adjustment clause. It also is possible that the commission might find that a utility does not qualify for a fuel adjustment clause and then would have to address whether an increase in coal expense for compliance purposes should be included in the ECRM.

OPC comments that as the commission exercises its discretion in determining what types of costs are eligible for recovery, it should look at the volatility of the costs to be included and the extent to which the costs are directly related to compliance with environmental regulations.

RESPONSE: The commission finds that examining whether the costs are directly related to environmental compliance is inconsistent with the statutory standard set forth in the statute of "prudently incurred costs, whether capital or expense, to comply with [environmental requirements]." The commission finds the inclusion of the volatility of the costs into its consideration to be irrelevant. The ECRM is limited to two and one-half percent (2.5%) of a utility's Missouri gross jurisdictional revenues. This will serve to mitigate such volatility as may exist. Further, the commission may include a consideration of volatility, and is not precluding such a review by failing to include it here. Inclusion would require the commission to always consider volatility, even in those instances in which it is irrelevant. The commission agrees that a listing of eligible costs would be counter-productive, in that any attempt at such a list would likely be either too narrow or too broad. No change will be made as a result of this comment.

COMMENT #7 (4 CSR 240-3.162(1)(F)1. and 2.): AmerenUE notes a drafting problem with the segregation of each utility's pre-existing revenue requirement into "environmental" and "non-environmental" components so that changes in the environmental revenue requirement can be tracked through the ECRM. The proposed rules remain ambiguous.

Since depreciation and taxes associated with capital projects are expensed under standard accounting practices, the language in the proposed rules arguably suggests that depreciation and taxes fall under paragraph (1)(F)1., which in turn may lead some to argue that depreciation and taxes for all capital projects, not just major projects whose primary purpose is to comply with environmental standards, must be included in the existing "environmental revenue requirement." This would mean that depreciation and taxes associated with every environmental capital item, no matter how minor, would have to be identified, calculated, and included in the environmental revenue requirement, which would be difficult if not impossible. Given the commission's adoption of the major project/primary purpose concept, it appears that the intent is to include in the environmental revenue requirement only those capital-related costs associated with major items whose primary purpose is environmental compliance.

There are three (3) costs associated with environmental capital projects: the cost of capital (return); depreciation; and taxes. The commission need only modify the proposed rules as follows:

1. All expensed environmental costs (other than taxes and depreciation associated with capital projects) that are included in the electric utility's revenue requirement in the general rate proceeding in which the ECRM is established; and

2. The costs (i.e., the return, taxes, and depreciation) of any major capital projects whose primary purpose is to permit the electric utility to comply with any federal, state, or local environmental law, regulation, or rule. Representative examples of such capital projects to be included (as of the date of adoption of this rule) are electrostatic precipitators, fabric filters, nitrous oxide emissions control equipment, and flue gas desulfurization equipment. The costs of such capital projects shall be those identified on the electric utility's books and records as of the last day of the test year, as updated, utilized in the general rate proceeding in which the ECRM is established.

Staff supports AmerenUE's changes. No commenters opposed them or provided alternative language.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds the rule as written is unclear and it will make the changes proposed by AmerenUE and supported by staff as noted in the comment and as fully set forth below.

COMMENT #8 (4 CSR 240-3.162(2)(E)): MIEC and OPC propose a similar modification to subsection (2)(E). OPC proposes the following language: A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity but not in excess of a fair return on equity. MIEC proposes slightly different language: A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity, but not by use of the ECRM in excess of a fair rate of return on equity.

AmerenUE responds that this additional language is not consistent with SB 179, for all the reasons set forth above in comment #2. The addition of such a requirement would be impracticable and essentially disable the use of the mechanism. The enabling statute does not contain such a requirement, rather it requires only that the mechanism needs to be reasonably designed to provide a fair opportunity to earn a reasonable return. There is nothing about earnings tests between rate cases. An ECRM is established only in a rate case and reviewed in a subsequent rate case. If excess earnings are suspected between rate cases upon review of the extensive surveillance and reporting, a complaint can be filed.

OPC responds that the inclusion of this language does not pertain to earnings reviews between cases. This provision pertains only to establishment of an ECRM. This language insertion really has nothing to do with periodic adjustments.

RESPONSE: The commission finds that the language change is not necessary. The language proposed by OPC and MIEC, on its face, seems to question the validity of an ECRM if the utility earns in excess of its authorized rate of return at any point in time, which is not consistent with the statute. If the language is inserted only to remind the commission of its duty to balance the interests of ratepayers and shareholders, then it is redundant. No change will be made as a result of this comment.

COMMENT #9 (4 CSR 240-3.162(2)(P)and (Q)): As discussed in comment #2 above, MIEC believes the proposed rules favor utilities. An overearning utility could receive additional revenues under an ECRM, contrary to legislative intent. OPC also asserts that the proposed rule allows a utility to protect and enhance its interests by deferring costs during a period of overearning to a subsequent period and would allow utilities to manipulate their earnings to the detriment of the public. The utility has such control over the timing of rate cases, filings under the rule, placing plant in service, and other matters that it allows the utility to "manage" its earnings. The proposed rule fails to reflect that fact and fails to safeguard consumers. Therefore, MIEC and OPC propose the inclusion of the following subsections in section (2):

(P) A five (5)-year annual history in electronic spreadsheet format of the rate base, capitalization, income statement, jurisdictional allocations and out-of-period adjustment items in a format consistent with the Surveillance Monitoring Report set out in section (6) of this regulation; and

(Q) A forecast of the annual jurisdictional revenue requirements and supporting workpapers including capital budget data. The forecast period shall be of a length to fully include four (4) years of operation of the proposed ECRM. The forecast shall quantify any rate increases necessary to preserve the rate of return requested by the utility, under each of the following alternative assumptions:

1. ECRM as proposed by the utility; and
2. No ECRM.

AmerenUE responds that the language in subsection (2)(P) essentially asks for data on a backwards-looking basis. In a rate case subsequent to the case that established the ECRM, in which the utility

seeks to continue the ECRM or recover deferrals in excess of the cap, this language would enable a party to look at a revenue requirement in each year of the ECRM's duration, in addition to the test year in the rate case. This language is inconsistent with the commission's use of a normalized test year, for all the same reasons stated by AmerenUE in comments #2 and #8 above. The commission is not empowered to apply an earnings test each year to adjustments under the ECRM.

AmerenUE adds that the forecast in subsection (2)(Q) attempts to look forward over a four (4)- or five (5)-year period and impose an earnings test at the front end. Forecasts over such a period of time become less reliable as circumstances change quickly. This goes beyond the "reasonably designed to allow a fair opportunity to earn a fair return on equity." The rules cannot go beyond the statute.

Finally, AmerenUE notes that nothing in SB 179 requires the commission to reconstruct earnings or discern what earnings might be in the future. OPC proposes to require an examination of the revenue requirement in the historic test year and in any year in which there is a deferral. The language proposed by OPC and MIEC should not be adopted.

RESPONSE: The commission finds that the language change is not necessary. As noted above, an ECRM is not to be rendered invalid if the utility earns in excess of its authorized rate of return at any point in time, because that would be inconsistent with the statute. The rule already requires the submission of extensive reports and surveillance information; requiring this additional information would burden both the utilities and the staff.

COMMENT #10 (4 CSR 240-3.162(3)(E)): MIEC and OPC propose a similar modification to subsection (3)(E): OPC proposes the following language: A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity but not in excess of a fair return on equity. MIEC proposes slightly different language: A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity, but not by use of the ECRM in excess of a fair rate of return on equity.

This proposed change is identical to that discussed in comment #8. All the same comments apply.

RESPONSE: For the reasons discussed in comment #8, no change will be made as a result of this comment.

COMMENT #11 (4 CSR 240-3.162(3)(P)and (Q)): OPC proposes the insertion of subsection (3)(P), and both MIEC and OPC propose the insertion of subsection (3)(Q):

(P) A five (5)-year annual history in electronic spreadsheet format of the rate base, capitalization, income statement, jurisdictional allocations, and out-of-period adjustment items in a format consistent with the Surveillance Monitoring Report set out in section (6) of this report;

(Q) A forecast of the annual jurisdictional revenue requirements and supporting workpapers including capital budget data. The forecast period shall be of a length to fully include four (4) years of operation of the proposed ECRM. The forecast shall quantify any rate increases necessary to preserve the rate of return requested by the utility, under each of the following alternative assumptions:

1. ECRM as proposed by the utility;
2. No ECRM; and

This proposed change is identical to that discussed in comment #9. All the same comments apply.

RESPONSE: For the reasons discussed in comment #9, no change will be made as a result of this comment.

COMMENT #12 (4 CSR 240-3.162(4)(C)): MIEC and OPC propose a similar modification to subsection (4)(C): OPC proposes the following language: A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity but not in excess of a fair return on equity. MIEC proposes slightly different language: A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity, but not by use of the ECRM in excess of a fair rate of return on equity.

This proposed change is identical to that discussed in comment #8. All the same comments apply.

RESPONSE: For the reasons discussed in comment #8, no change will be made as a result of this comment.

COMMENT #13 (4 CSR 240-3.162(5) and (6)): Staff supports the language of these sections, noting that a utility using an ECRM is required to comply with monthly and quarterly reporting requirements. Care was taken in the drafting of the reporting requirements of the proposed ECRM rules to make them consistent, as much as possible, with the reporting requirements of the rate adjustment mechanism (RAM) rules. As required by SB 179, and consistent with the RAM rules, the ECRM rules require true-ups at least every twelve (12) months, prudence reviews at least every eighteen (18) months, and separate identification of the ECRM on customers' bills.

The staff supports the surveillance reporting requirements, as this will provide sufficient data for the staff to evaluate the earnings of a utility with an ECRM and determine whether it has cause to file a complaint that the utility is overearning. Staff notes that it reviews both net increases and decreases. This allows staff to consider such factors as decreases in depreciation or property tax. Netting the costs could benefit consumers.

RESPONSE: These comments do not necessitate any change.

4 CSR 240-3.162 Electric Utility Environmental Cost Recovery Mechanisms Filing and Submission Requirements

(1) As used in this rule, the following terms mean:

(F) The environmental revenue requirement shall be comprised of the following:

1. All expensed environmental costs (other than taxes and depreciation associated with capital projects) that are included in the electric utility's revenue requirement in the general rate proceeding in which the ECRM is established; and

2. The costs (i.e., the return, taxes, and depreciation) of any major capital projects whose primary purpose is to permit the electric utility to comply with any federal, state, or local environmental law, regulation, or rule. Representative examples of such capital projects to be included (as of the date of adoption of this rule) are electrostatic precipitators, fabric filters, nitrous oxide emissions control equipment, and flue gas desulfurization equipment. The costs of such capital projects shall be those identified on the electric utility's books and records as of the last day of the test year, as updated, utilized in the general rate proceeding in which the ECRM is established;

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250, 386.266, and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-20.091 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 3, 2009 (34 MoReg 196–199). A second notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri*

Register on March 16, 2009 (34 MoReg 605–608). Relevant portions of those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The first public comment period ended March 4, 2009, and a public hearing on the proposed rule was held March 4, 2009. The second public comment period ended April 15, 2009, and a second public hearing was held the same day. Timely written comments were received from Union Electric Company d/b/a AmerenUE, the Missouri Industrial Energy Consumers (MIEC), the Public Counsel (OPC), and the staff of the Missouri Public Service Commission. In addition, Lena Mantle and Mark Oligschlaeger on behalf of the staff, Ryan Kind on behalf of OPC, and Mark C. Birk on behalf of AmerenUE testified at the hearing on March 4, 2009, and counsel to the commenters made substantive verbal comments at the hearing. Counsel for the Missouri Industrial Energy Consumers and for AmerenUE also offered comments at the April 15 hearing. The testimony and comments both opposed and supported the adoption of the rule, and both opponents and supporters of the rule made specific recommendations for changes in the language and operation of the rule. Consumers and consumer groups opposed the rule; electric companies and the commission staff supported the rule.

COMMENT #1 (Public Interest): AmerenUE agrees with the commission's finding that these rules are necessary and with the commission's statement that, in the current economic climate, these rules are necessary. Timely recovery of investment capital will be essential to financing environmental upgrades to existing power plants and hastening compliance with government mandates designed to improve the quality of the environment for all Missourians. With the exception of AmerenUE's technical correction to the proposed rule, it finds the rule as proposed to be acceptable.

Staff believes that the presence of an Environmental Cost Recovery Mechanism (ECRM) is consistent with the public interest, because one presumes that the state legislature acts in the broad public interest. Staff takes the position that the presence of an ECRM is neutral to ratepayers. However, if used properly, it may operate to improve capital flows or certainly cash flow, which could be translated into a benefit in ratemaking terms. It is possible to track or monitor a benefit to ratepayers of an ECRM, but staff notes that it would be very difficult to do.

In response to questions, staff commented that it supported adoption of the rule although the commission already allows a surcharge for infrastructure replacement. Staff opines that those procedures are not adequate to address the issues dealt with in an ECRM, in that the infrastructure replacement rules do not apply to both increases and decreases, and deal only with capital expenditures.

MIEC notes that section 386.266, RSMo Supp. 2008, provides the authority for the commission to promulgate regulations to implement, and that are consistent with, that section. The legislature could have simply authorized utilities to implement an ECRM but instead granted the commission discretion, under specific parameters, to authorize or withhold an ECRM.

OPC believes that, as presently proposed by the commission, the rule is not consistent with the public interest.

RESPONSE: The commission remains convinced that these rules are in the public interest. Other filings made by Missouri electric utilities to this commission indicate that those utilities are in the process of spending hundreds of millions, possibly billions, of dollars to comply with new and proposed federal regulations. These regulations are a tool that can be used by the commission to help the company install new environmental upgrades while maintaining access to the capital markets to fund other necessary or desirable infrastructure investments and to do so in a manner that could ultimately lower costs to the ratepayer. Accordingly, with the exception of specific proposed changes, which are dealt with elsewhere in this order, these comments do not necessitate any change.

COMMENT #2 (Overearning): Staff believes that the rule creates a potential for a utility to earn more than its authorized rate of return. Staff does not believe that the ECRM creates any greater potential for overearning than another type of surcharge, such as a fuel adjustment clause. Absent the surcharge, the utility has to manage all of its costs and all of its revenues. To isolate a portion of operations and allow rate increases, if that portion's expenses increase, removes down-side risk. Therefore, the possibility to overearn is enhanced. However, staff notes that the inclusion of capital expenditure in an ECRM will not necessarily mean that a utility is overearning, even without any sharing mechanism, because to determine whether a utility is overearning, the commission must review all the operations, all its costs with a return on investment, taxes, and all operating expenses and compare that with revenues to determine whether operations generate an appropriate return. The commission will do this in a general rate proceeding in which an ECRM is sought. Although staff believes this review is precluded between the rate cases, Staff believes that the surveillance data will significantly assist in its monitoring and reviewing process and notes that the cap of two and one-half percent (2.5%) would serve to limit any overearnings, if they exist. Staff notes that it still is able to file a complaint if it believes a company is overearning.

OPC responds that a significant short-coming of the complaint process is the statutory limitation of potential complainants. Complainants face a resource-intensive undertaking and must begin it with limited information to predict the success of its efforts. Only staff has sufficient resources to mount an earnings complaint. Workload considerations can prevent or delay a complaint and limit the investigation. The surveillance provisions of the rule may help determine when a complaint may be justified, but will not supply sufficient data and other resources necessary to successfully prosecute a complaint. Moreover, if the ECRM does lead to overearning, the utility will keep excess earnings generated between the time the overearning is discovered and the complaint is resolved. Further, there is no statutory time limit in which to decide a complaint case, so this creates an incentive to delay. In such a situation, customers bear both the risk of increasing and volatile costs and the risk of funding excess earnings without the possibility of refund.

MIEC asserts that the statute was intended to strike a balance between the interests of utilities and of consumers. MIEC agrees with both OPC and staff that the legislature did not intend to create a mechanism for utilities to overearn. However, MIEC believes the proposed rules tip the scale in favor of utilities. In MIEC's view, it is possible under the rules that an overearning utility will receive additional revenues under an ECRM, contrary to legislative intent. MIEC's proposed changes are designed to allow utilities to receive additional revenues for environmental costs only when necessary to achieve the authorized rate of return.

OPC also asserts that SB 179's creators clearly contemplated that the commission would protect consumers in its ECRM rules. While the law enhances a utility's ability to increase revenues, it does not alter fundamental "rate of return" regulation. The proposed rule allows the utility to protect and enhance its interests by deferring costs during a period of over-earning to a subsequent period. The proposed rules would allow utilities to manipulate their earnings to the detriment of the public. The utility has too much control over the timing of rate cases, filings under the rule, placing plant in service, and other matters. The proposed rules fail to safeguard consumers to the detriment of the public, without any cost of service justification.

Although AmerenUE conceded that it is possible for a utility to earn more than its authorized rate of return while an ECRM is in place, given the magnitude of the environmental investments that utilities face, along with other cost and revenue issues that are tracked closely by this commission, it is highly unlikely. AmerenUE noted that the statute's purpose is to give a utility an opportunity to earn a fair return. At any given snapshot in time, the utility may earn more or less than that. The fact that a utility at a moment in time earns over its authorized return does not mean its rates are unjust and

unreasonable or that it is overearning. The statute does not attempt to prevent any circumstance where the utility at a given point could earn less or more than its authorized return. True overearning is systemic earnings so much in excess of the utility's cost of capital (which can change from the time of the rate case) from what was authorized, based on normalized conditions, that rates become unjust and unreasonable. It is not earning greater than the authorized return at a given moment.

OPC proposes that to guard against earnings in excess of the authorized rate of return, the commission should implement an "earnings test." According to OPC, any ECRM that would pass through environmental costs to ratepayers while the utility earns in excess of its authorized rate would abrogate the commission's obligations to ratepayers. The proposed rule requires the commission to find that an ECRM provides the opportunity to earn a fair rate of return whenever it decides to continue or modify an ECRM the utility has requested be discontinued. This same determination is just as necessary when the commission decides to implement an ECRM in the first place, but it is not required in the rule. Effectively, ratepayers have less ability to challenge the implementation of an ECRM than to challenge a commission decision to modify or continue an ECRM.

AmerenUE notes that staff has said that there will be a study of a company's earnings in the general rate proceeding that establishes an ECRM, but that staff is precluded from doing such a study between rate cases. AmerenUE asserts that this is the same conclusion reached by the commission in refusing to include similar earnings tests proposed by OPC and others in the fuel adjustment clause (FAC) rulemaking proceedings.

RESPONSE: Use of the ECRM must be authorized by the commission inside a rate case where the commission reviews all revenue and expenses. In the event the commission authorizes an ECRM, the commission has the ability to track all of those revenues and expenses, and to take action accordingly. Therefore, the commission finds that the proposed rules do not necessarily cause utilities to overearn, and if a utility does overearn, there are sufficient remedies available. With the exception of specific proposed changes, which are dealt with elsewhere in this order, these comments do not necessitate any change.

COMMENT #3 (Effect on Environmental Projects): AmerenUE does not believe that the presence of an ECRM will necessarily accelerate the completion of environmental projects. Environmental projects to be completed are regulatory requirements imposed on the utilities. The ECRM will allow utilities to meet those environmental requirements and still have access to necessary capital to invest in and maintain other plant assets over and above the environmental assets. The rule is designed to allow utilities to most effectively install environmental projects that are required. Without the rule, the environmental projects will be installed, but access to additional capital to perform other needed maintenance and equipment upgrades on the other plant will not exist. Other potential projects that will enhance reliability on existing generating that are not mandated will suffer.

AmerenUE notes that while the rule is not necessary to enforce environmental obligations, not having it may lead to higher costs to install environmental projects. If a utility is required to install environmental equipment, ultimately those costs will be passed on to ratepayers. Being able to recover those costs more quickly can lead to a lower overall cost for the installation of mandated equipment.

As to the timely completion of environmental projects, although staff does not believe that more will be completed, some may be completed earlier than they would have otherwise. If an ECRM is approved, it could be used as a tool by the utilities if they determine that early implementation is a benefit to both the consumers and the company. In some cases, based on available labor, steel prices, etc., it may be beneficial for environmental equipment to be added early.

OPC has no reason to believe that the rule will accelerate the completion of environmental projects or that the rule will encourage more environmental projects than would otherwise occur.

RESPONSE: The commission finds that it is not necessary for the rule to operate in a way that will accelerate or enhance the completion of environmental projects. It is enough that this rule has the ability to assist companies faced with large capital spending programs and lower the cost of financing projects of this nature, which will be of benefit to the company and the ratepayers. No change will be made as a result of this comment.

COMMENT #4 (Consumer Safeguards): Staff commented at length on the process of roundtables and other group efforts that created the draft ECRM rules and how the proposed ECRM relates to other rate adjustment mechanisms. As to safeguards in the rule, staff noted that electric utilities will only be permitted to request an ECRM in a general rate proceeding where all relevant expenses, revenues, and rate base items are considered. Parties to that proceeding can propose variations or alternative methodologies/mechanisms or can oppose the ECRM. The commission may approve, modify, or reject any proposed ECRM. An ECRM cannot remain in effect for longer than four (4) years without a new general rate proceeding and modification or extension of the ECRM.

OPC believes the proposed rules do not contain adequate consumer protections and do not adequately ensure that utilities will act prudently with respect to environmental expenditures. It is reasonable to assume the legislature would only have granted the commission authority to allow an ECRM in the belief that the commission's rules would protect ratepayers. Regulatory procedures should address the needs of both ratepayers and utilities (safe and adequate service at just and reasonable rates that provide a utility an opportunity to earn a fair rate of return). The rules should apply incentives to the utility, so it makes necessary environmental investments economically and so it operates those facilities reasonably. Timelines should be set out in the rule to ensure ratepayers are not faced with unreasonably large rate increases.

OPC opines that an ECRM shifts the risk of changes in the cost of environmental compliance from the utility to its customers and that this shift removes incentives for utilities to exercise due diligence and to develop and implement prudent environmental compliance strategies. This greatly changes the regulatory paradigm in Missouri, which has fostered low rates while maintaining reasonable returns for investors. Adequate consumer protections must be added to the proposed rules to compensate for the shifting risk, if the commission is to adequately perform its statutory duties. The allowance of an ECRM is not mandatory, but the proposed rules do not provide any guidance for determining whether an ECRM is appropriate. A "threshold test" of the necessity of an ECRM for the utility to earn its authorized return is needed, and should assess the likelihood the ECRM would cause it to overearn. The utility must be required to submit adequate financial data, accessible to all parties in the rate case, as part of its application.

MIEC agrees that it is crucial that consumer protections be included in the rule, rather than being left to rate cases. Key principles should be included in the rules, because industrial consumers must be allowed to plan for their impact. Providing protections in the rules ensures predictability for consumers and utilities alike and leads to fair application of the rules.

MIEC asserts that although section 386.266, RSMo, does authorize the commission to grant ECRMs, the statute is replete with consumer protections, such as the prudence requirement, the two and one-half percent (2.5%) annual cap, the ECRM creation rate case requirement, the "fair return" finding, the annual true-up, the no longer than four (4)-year rate case cycle, and regular prudence reviews. Failure to adhere to these consumer protections could render such an ECRM unlawful.

AmerenUE and staff are of the opinion that the consumer protections contained in SB 179 are already in the proposed rules.

RESPONSE: The commission finds that the necessary consumer protections, including the several consumer protections reflected in

section 386.266, RSMo, are already contained in the rule and are sufficient. No change will be made as a result of this comment.

COMMENT #5 (Sharing Mechanisms): OPC advocates for a process to align the interests of ratepayers and shareholders. OPC would change language to allow approval of an ECRM that allows recovery of "some or all" of the costs, to provide an incentive mechanism in which the utility could only collect, ninety or ninety-five percent (90 or 95%) of the change in environmental costs. In addition, OPC would include a new section that specifically aligns the interests of ratepayers and shareholders, similar to performance-based language in the fuel adjustment clause rules. OPC remains skeptical that an ECRM could ever benefit ratepayers. For there to be a benefit, positive aspects would need to overcome the large detriment created by a flow-through mechanism for cost recoveries. The proposed rule, without the additional consumer protections OPC proposes, would be detrimental to ratepayers.

OPC believes that a financial incentive (gains or losses) is a critical consumer protection. To pass through one hundred percent (100%) of the cost significantly diminishes any incentive to prudently manage the annual cost of environmental compliance and to minimize long-run costs. Regulators cannot review transactions in real time, as the utility does. The utility should have to justify recovery of environmental compliance costs in a prudence review subsequently, using information gleaned during the recovery period. The electric industry is highly complex. A "fix" in one area can cascade through the rest of the system. A regulatory model that does not recognize this fact is inferior.

Staff counters that section 386.266, RSMo, allows incentives for rate adjustment mechanism, but there is no similar statutory provision for incentives for ECRMs. Section 386.266, RSMo, restricts the annual amount of revenue collected by an ECRM to not more than two and one-half percent (2.5%) of the revenues of the electric utility but allows the electric utility to defer costs not recovered as a result of this restriction. The language in the rule mirrors the language in the statute.
RESPONSE: The commission finds that staff is correct, in that subsection 1 of section 386.266, RSMo, which deals with rate adjustment mechanisms for fuel and purchased power costs, contains language permitting incentive plans, but subsection 2, pertaining to environmental cost recovery, does not. Subsection 8, cited by OPC in its comments, does not provide authority for incentive mechanisms; rather it states in part, "This subsection shall not be construed to authorize or prohibit any incentive- or performance-based plan." No change will be made as a result of this comment.

COMMENT #6 (Eligible Costs): Staff envisions that both capital expenditures and associated items that are normally expensed would be recoverable through an ECRM, the larger portion of which would be the capital expenditures. As to truly one (1)-time expenses, if the expense qualified for the adjustment, it would be put in then come out in subsequent true-up periods.

Staff has not compiled a list of items to be included or not included in an ECRM and does not recommend that the rule further define "federal, state, or local environmental law, regulation, or rule." The commission should determine in the proceeding in which an ECRM is established or modified exactly what costs are prudently incurred to comply with a "federal, state, or local environmental law, regulation, or rule" and should be recovered in an ECRM. This issue was discussed at length in the workshops on the rule, but the participants found it difficult to define without being either too broad or too restrictive. Staff concludes that it is best left to the discretion of the commission. For example, a utility might purchase a higher-priced coal to meet environmental requirements, but not have a fuel adjustment clause. There may be an argument that the higher-priced coal should not be in an environmental cost mechanism but would be more properly reflected in a fuel adjustment clause. It also is possible that the commission might find that a utility does not qualify for a fuel adjustment clause and then would have to address whether an increase in coal expense for compliance purposes should be included in the ECRM.

OPC comments that as the commission exercises its discretion in determining what types of costs are eligible for recovery, it should look at the volatility of the costs to be included and the extent to which the costs are directly related to compliance with environmental regulations.
RESPONSE: The commission finds that examining whether the costs are directly related to environmental compliance is inconsistent with the statutory standard set forth in the statute of "prudently incurred costs, whether capital or expense, to comply with [environmental requirements]." The commission finds the inclusion of the volatility of the costs into its consideration to be irrelevant. The ECRM is limited to two and one-half percent (2.5%) of a utility's Missouri gross jurisdictional revenues. This will serve to mitigate such volatility as may exist. Further, the commission may include a consideration of volatility, and is not precluding such a review by failing to include it here. Inclusion would require the commission to always consider volatility, even in those instances in which it is irrelevant. The commission agrees that a listing of eligible costs would be counter-productive, in that any attempt at such a list would likely be either too narrow or too broad. No change will be made as a result of this comment.

COMMENT #7 (4 CSR 240-20.091(1)(B) and (4)(B)): OPC commented that risk provides a powerful incentive to a utility to plan and operate its system in the most prudent manner. Increased earnings resulting from critical operational decisions provide immediate and effective feedback to those making the critical decisions. In contrast, regulatory oversight under the proposed rule is after the fact. The commission must attempt to recreate situations to envision the options available to a "reasonable person." Much of the information necessary to evaluate reasonableness is not always available to OPC or the commission. OPC proposes several changes in the attached rule to address this incentive concern. Inclusion of the phrase "some or all" in several sections explicitly recognizes the commission's discretion to approve an ECRM that permits only a portion of the changes in costs allowable to be included and recovered in the ECRM.

AmerenUE notes that it is entirely within the commission's discretion to not approve an ECRM. However, if the commission does approve one, the statute says that utility will be able to propose tariffs that would reflect changes in their environmental cost. In the ECRM context sharing or incentive mechanisms are not authorized. Section 386.266, RSMo, has two (2) subsections. Subsection 1 specifically indicates that the commission can incorporate incentive mechanisms in rate adjustment mechanisms for fuel and purchased power. Subsection 2, which deals with environmental costs, does not have any language of that nature. Therefore, the "some or all" language should not be inserted into this rule. If the government mandates an environmental cost and the utility incurs it, the utility ought to be able to pass that cost through.
RESPONSE: As discussed in response to comment #5 above, the commission finds that subsection 1 of section 386.266, RSMo, which deals with rate adjustment mechanisms for fuel and purchased power costs, contains language permitting incentive plans, but subsection 2, pertaining to environmental cost recovery, does not. No change will be made as a result of this comment.

COMMENT #8 (4 CSR 240-20.091(1)(D)1. and 2.): AmerenUE notes a drafting problem with the segregation of each utility's pre-existing revenue requirement into "environmental" and "non-environmental" components so that changes in the environmental revenue requirement can be tracked through the ECRM. The proposed rules remain ambiguous.

Since depreciation and taxes associated with capital projects are expensed under standard accounting practices, the language in the

proposed rules arguably suggests that depreciation and taxes fall under paragraph (1)(D)1., which in turn may lead some to argue that depreciation and taxes for all capital projects, not just major projects whose primary purpose is to comply with environmental standards, must be included in the existing "environmental revenue requirement." This would mean that depreciation and taxes associated with every environmental capital item, no matter how minor, would have to be identified, calculated, and included in the environmental revenue requirement, which would be difficult if not impossible. Given the commission's adoption of the major project/primary purpose concept, it appears that the intent is to include in the environmental revenue requirement only those capital-related costs associated with major items whose primary purpose is environmental compliance.

There are three (3) costs associated with environmental capital projects: the cost of capital (return); depreciation; and taxes. The commission need only modify the proposed rules as follows:

1. All expensed environmental costs (other than taxes and depreciation associated with capital projects) that are included in the electric utility's revenue requirement in the general rate proceeding in which the ECRM is established; and

2. The costs (i.e., the return, taxes, and depreciation) of any major capital projects whose primary purpose is to permit the electric utility to comply with any federal, state, or local environmental law, regulation, or rule. Representative examples of such capital projects to be included (as of the date of adoption of this rule) are electrostatic precipitators, fabric filters, nitrous oxide emissions control equipment, and flue gas desulfurization equipment. The costs of such capital projects shall be those identified on the electric utility's books and records as of the last day of the test year, as updated, utilized in the general rate proceeding in which the ECRM is established.

Staff supports AmerenUE's changes. No commenters opposed them or provided alternative language.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds the rule as written is unclear. It will make the changes proposed by AmerenUE and supported by staff as noted in the comment and as fully set forth below.

COMMENT #9 (4 CSR 240-20.091(1)(F)): Staff, in support of the proposed rule, notes that the ECRM rules do not address voltage levels. Voltage levels and line losses pertain to fuel and purchased power costs but are not relevant to environmental compliance costs. Most environmental costs will be large capital plant investments. This equipment is required regardless of how much energy the plant generates and does not correspond to the amount of energy usage of any customer or any customer class. The ECRM rules are silent on the rate design of the ECRM. Parties to the general rate case setting the ECRM can propose cost allocation methodologies and rate design proposals to the commission. The rules, as proposed, leave to the commission the determination of allocation method, including methods that take voltage levels into account.

RESPONSE: No language change is necessitated by these comments.

COMMENT #10 (4 CSR 240-20.091(2)(A)): As discussed in comment #2 above, MIEC believes the proposed rules favor utilities. An overearning utility could receive additional revenues under an ECRM, contrary to legislative intent. OPC proposes the following additional language in subsection (2)(A):

> The commission may approve the establishment, continuation, or modification of an ECRM and rate schedules implementing an ECRM provided that it finds that the ECRM it approves is necessary and reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity, but no greater than a fair return on equity. Any rate schedule approved to implement an ECRM must conform to the ECRM approved by the commission.

MIEC proposed similar language, which states:

> The commission may approve the establishment, continuation, or modification of an ECRM and rate schedules implementing an ECRM provided that it finds that the ECRM it approves is necessary and reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity, but not by use of the ECRM in excess of a fair return on equity. Any rate schedule approved to implement an ECRM must conform to the ECRM approved by the commission.

As to the inclusion of the word "necessary," OPC comments that this change was proposed to give guidance to the commission on its exercise of the discretion under this new law, to decide whether an ECRM is appropriate. AmerenUE notes that the proposed language is inconsistent with section 386.266.4.1, RSMo, which requires that the commission find that the mechanism is reasonably designed to provide the utility with a sufficient opportunity to earn a fair return on equity. This is a substantively different standard than "necessary."

As to the inclusion of the phrase "but no greater than a fair return on equity," AmerenUE responds that this additional language is not consistent with SB 179, for all the reasons set forth above in comment #2. The addition of such a requirement would be impracticable and essentially disable the use of the mechanism entirely. The enabling statute does not contain such a requirement, rather it requires only that the mechanism needs to be reasonably designed to provide a fair opportunity to earn a reasonable return. There is nothing in the statute about having earnings tests between rate cases, except to the extent they will be applied when an ECRM adjustment is made. An ECRM is established only in a rate case and reviewed in a subsequent rate case. If excess earnings are suspected between rate cases upon review of the extensive surveillance and reporting, a complaint can be filed.

As to the inclusion of the sentence, "Any rate schedule approved to implement an ECRM must conform to the ECRM approved by the commission," no party objected to the inclusion. AmerenUE noted that it found the requirement to be unnecessary, as every compliance tariff filed after a rate case must conform to the order of the commission. However, AmerenUE stated it had no objection.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the first two (2) language changes are not necessary. The "necessary" language imposes a standard not found in the statute, which restricts the scope of this rule and precludes inclusion. The second language change, which calls into question the validity of an ECRM if the utility earns in excess of its authorized rate of return at any point in time, is not consistent with the statute. No change will be made as a result of these comments.

As to the language concerning compliance tariffs, the commission finds that, although it restates a current requirement, it properly articulates that standard and is reasonable to include, as set forth fully below.

COMMENT #11 (4 CSR 240-20.091(2)(B) and (3)(B)): OPC and MIEC propose to change the word "may" to "shall" in subsection (B) of sections (2) and (3). MIEC notes that although the statute uses the word "may," both OPC and MIEC have suggested that the commission require consideration in establishing an appropriate rate of return whether utility has an ECRM. The statute uses the term may, but this commission has the right to exercise its discretion to require it in every case, and MIEC suggests that the commission do that. AmerenUE comments that changing the word "may" to "shall" is another attempt to change the statute itself, which reads, the commission "may take into account any change in business risk…" The rules cannot lawfully require when the legislation specifically provides that the commissions may, but is not required to, consider this factor.

RESPONSE: The commission agrees that the rule appropriately mirrors the language in the statute. No change will be made as a result of this comment.

COMMENT #12 (4 CSR 240-20.091(2)(C)): OPC suggests additional considerations for the commission to address in determining the appropriateness of recovery through an ECRM. OPC asserts that

insertion of the word "directly" does not impose a new standard because the concept already appears in the definitions of environmental cost in both Chapter 20 and Chapter 3. The Chapter 20 definition says, "Environmental costs mean prudently incurred costs, both capital and expense, directly related to compliance with any federal, state or local environmental law, regulation or rule." OPC suggests making this subsection consistent with the provisions in the rule that define environmental cost. OPC also proposes to include volatility in the criteria for evaluating whether a particular cost should be included in an ECRM.

MIEC and OPC propose to make insertions in subsection (2)(C) as follows:

> In determining which environmental cost components to include in an ECRM, the commission will consider, but is not limited to only considering, the magnitude of the costs, the ability of the utility to manage the costs, the volatility of the cost, the incentive provided to the utility as a result of the inclusion or exclusion of the cost, and whether the cost is directly related to environmental compliance.

AmerenUE notes that volatility is just a factor the commission reviews in connection with fuel adjustment clauses. It is not required by the statute. Moreover, consideration of volatility does not dictate a certain outcome as to inclusion in a fuel adjustment cause. In any event, environmental costs are driven by compliance with statutes or regulations that are imposed by the government. The ECRM provisions were designed to be a tool to address the prospect of huge expenditures to control pollution. Installation of a $500 million scrubber every couple years may not be "volatile" in the sense intended by OPC, but an item mandated by law and beyond the utility's control will certainly inject volatility into utility earnings.

AmerenUE opposes the inclusion of "directly" as it appears to preclude the utility from passing through an environmental cost that is indirectly caused by environmental regulation. If a law imposes indirect costs, then those costs should be recovered. If a company put in a scrubber earlier than required because it would be cheaper at that point, it might be argued that, because it was not required at that moment, it was only indirectly caused by the regulations, although it was prudent and wise to do. Therefore, the proposed change is inappropriate and unwise.

RESPONSE: As the commission discussed in its response to comment #6 above, examining whether the costs are directly related to environmental compliance is inconsistent with the statutory standard of "prudently incurred costs, whether capital or expense, to comply with [environmental requirements]." Although OPC correctly points out that the definition of environmental costs includes the word "directly," its inclusion here is inappropriate. The commission finds the inclusion of the volatility of the costs into its consideration to be irrelevant. The ECRM is limited to two and one-half percent (2.5%) of a utility's Missouri gross jurisdictional revenues. This will serve to mitigate such volatility as may exist. Further, the commission may, in its discretion, consider volatility and is not precluding it by not including it here. Inclusion would require the commission to always consider volatility, even in those instances in which it is irrelevant. No change will be made as a result of this comment.

COMMENT #13 (4 CSR 240-20.091(2)(H) and(4)(C)): MIEC proposes a limitation on deferrals of ECRM costs. Ratepayers need protection against deferrals of excessive ECRM costs resulting in unreasonable rates. The proposed rule should specify the commission's authority to limit deferrals to protect ratepayers. The rule should specify that deferred costs cannot be recovered when the utility earned in excess of its authorized return during the period in which the deferred costs were incurred, and specify that allowed deferred costs be collected over the life of the capital addition that gave rise to the cost deferral.

OPC proposes changes to reduce the utility's ability to earn in excess of its authorized return. Specifically, OPC and MIEC propose the following standard to determine whether deferred costs can be included in either an ECRM or rate case proceeding in subsection (4)(C):

> 4. The recovery of any deferred costs and related carrying costs shall be limited to those deferrals that, absent deferral, would have resulted in the utility earning less than its authorized rate of return on equity during the periods from which the costs were deferred.
>
> 5. The recovery period for which deferred costs are eligible for recovery shall be equal to the life of the asset if the cost would have been a capital cost or related to a capital cost in the period incurred absent its deferral.
>
> 6. The recovery period for which deferred costs are eligible for recovery shall be not less than five (5) years but not greater than ten (10) years if the cost would have been an expense in the period incurred absent its deferral.
>
> 7. The recovery period shall be determined by the commission at the time the recovery of the deferred costs begins.
>
> 8. Deferred costs that are eligible for recovery shall not be considered part of Rate Base in subsequent general rate proceedings.

OPC's proposed earnings test applies only to the deferral and not to the ECRM periodic adjustment. If the ECRM adjustment is less than two and one-half percent (2.5%), there would be no subsequent earnings test. The earnings test would only apply when the utility defers revenues, and would determine whether, absent the deferral, earnings would have been adequate. The analysis would be performed only in the required rate case at the end of the ECRM period. OPC notes that a deferral in years one (1), two (2), or three (3) of an ECRM does not preclude an ECRM adjustment in a subsequent year to reflect a change in environmental revenue requirement. The ECRM calculation would be made just as it was in the initial year. Environmental compliance expenses and capital investments will be recorded as they occur. Costs, not revenues, determine the overall cost of service.

AmerenUE comments that language to limit recovery of deferred costs when the utility has earned in excess of its authorized return at any point within the duration of an ECRM is not authorized, is unwise, and should not be adopted. Limiting the recovery period to the life of the capital asset to which the deferred cost relates appears to modify the two and one-half percent (2.5%) cap and deferral provisions in SB 179. The last sentence of section 386.266.2, RSMo, says that any costs not recovered as a result of the annual two and one-half percent (2.5%) limitation may be deferred at a carrying cost each month equal to the utility's net of tax cost of capital for recovery in a subsequent year or in the corporation's next general rate case or complaint proceeding. Therefore, the proposed language is contrary to the statute and for that reason should not be adopted.

Staff commented that the statute limits the ECRM to two and one-half percent (2.5%) of a utility's Missouri gross jurisdictional revenues in first year; in the second year, an additional two and one-half percent (2.5%) is permitted and so forth for all four (4) years. The most the rates could increase would be ten percent (10%), based on the statutory language "shall not exceed an annual amount," meaning that each year's maximum ECRM amount cannot exceed two and one-half percent (2.5%). Staff does not support any restriction on the amounts of the deferral of increases above the cap, which carries over to the next rate case, in which recovery may be sought. Safeguards tie large deferrals to capital investments that track to an environmental compliance plan. The commission can determine in the rate case whether a cost is a fuel/purchased power or an environmental cost. Some stakeholders feared that utilities may identify an environmental cost as a fuel or purchased power cost to circumvent the two and one-half percent (2.5%) annual limit. However, no suitable language to address this concern could be agreed upon. The proposed rules do state that environmental costs do not include fuel and purchased power costs. The parties to the rate case can present their positions as which cost items should be collected in a rate adjustment mechanism and which should be collected in an ECRM. The commission will then have the opportunity to ensure that environmental costs are not improperly classified.

RESPONSE: The commission finds that the language change is not necessary. As discussed in comment #2 above, limiting recovery because there are earnings in excess of an authorized rate of return at a point in time would be inconsistent with the statute. In the event that a utility has environmental costs in excess of the cap, it shall, as staff noted, seek to recover all of those costs in the subsequent rate case. Attempting, in that subsequent rate case, to determine whether a utility overearned for any period of time or at a point in time would unduly burden a rate case proceeding in which the established parameters of test year and normalized conditions protect both utilities and ratepayers. No change will be made as a result of this comment.

COMMENT #14 (4 CSR 240-20.091(2)(K)): MIEC asserts that the rules need to protect against utility overearnings. Absent a mechanism to adjust rates if earnings are above the authorized return, there is a strong potential that utilities will overearn and rates will be too high. Section 386.266, RSMo, requires that an ECRM be "reasonably designed to provide the utility with a sufficient opportunity to earn a fair return on equity," not that utilities "earn at least a fair return on equity." Moreover, the commission's statutory obligation is to establish "just and reasonable rates." After rates are set, elements of the revenue requirement equation will change. The combined effect of changes alters the utility's return on equity. To the extent that particular costs are singled out for separate recovery, such as the ECRM, there is a high likelihood that the utility will over-earn, because environmental compliance cost increases may be passed through without any offsetting decreases in other costs. Accordingly, the commission must implement a mechanism that enables it to limit the pass-through of environmental costs if other costs decrease. MIEC asserts that Missouri utilities have earned returns in excess of "reasonable" returns and have made refunds and reduced rates. Utilities may argue this is not likely to be repeated. If that is the case, the utilities should be unconcerned with MIEC's proposals. MIEC believes the potential for overearning still exists and that consumers are entitled to protection, especially when adjustment clauses are added to tariffs. Such mechanisms, left unchecked, allow utilities to isolate and recover costs, without considering all other costs and revenues. Completion of major construction will result in declining rate base, resulting in increasing returns. MIEC proposes to add the following language as new subsection (2)(K):

> In establishing, continuing, or modifying the ECRM, the commission shall consider whether the presence of the ECRM is likely to allow the utility to earn in excess of its authorized return on equity. If the commission finds this to be the case, it may include in the ECRM procedures designed to periodically examine the utility's earnings (on a regulatory basis), and appropriately limit the collection of costs under the ECRM to the extent necessary to prevent the utility from earning in excess of its authorized return on equity as a result of revenues received through the ECRM.

AmerenUE responds that MIEC's proposed language is an earnings test; a cap on ECRM adjustments based on whether a utility is earning above its authorized return, without consideration of other factors, at some particular point in time. It would improperly preclude consideration of a change in the utility's cost of equity. Whether a utility's rates are just and reasonable cannot be determined at a point in time by "examining the utility's earnings (on a regulatory basis)." This is what the periodic rate cases required by SB 179 are for.

RESPONSE: The commission finds that the proposed language would allow for the modification of an ECRM between rate cases, which is specifically precluded by section 386.266.4., RSMo. That section requires that the "commission shall have the power to … modify … adjustment mechanisms … only after providing … a general rate proceeding." No change will be made as a result of this comment.

COMMENT #15 (4 CSR 240-20.091(3)(A)): Both OPC and MIEC propose language be added to the rule that would allow those who oppose the discontinuation of an ECRM to be able to do so on the grounds that granting an ECRM is a detriment to the public interest, by inserting as a grounds for opposition to the discontinuation of an ECRM "or on any other grounds that would result in a detriment to the public interest." OPC notes that although this language is not in the statute, neither is the other language in the proposed rule concerning a basis for opposing discontinuation of an ECRM. If opposing the discontinuance on the basis of declining costs is appropriate, OPC asserts that opposing the discontinuance on the basis of public detriment is appropriate as well.

AmerenUE responds that a "public interest" standard is not found anywhere in SB 179 and would cause the ECRM rules to vary from the FAC rule provisions on the same subject. The obvious purpose of this discontinuation provision is to preclude the utility from opportunistically ending an ECRM mechanism if its environmental costs were going down. It was not to prevent the utility from deciding it did not want to file a tariff in a later rate case to continue an ECRM based upon the amorphous "public interest" language proposed by OPC and MIEC. Utilities are the only parties who can file tariffs to propose an ECRM in the first place. Unless the utility is opportunistically seeking to end an ECRM to deprive ratepayers of environmental cost decreases, the utility should be free to discontinue an ECRM for other reasons.

RESPONSE AND EXPLANATION OF CHANGE: As has been noted above, the FAC rules and the ECRM rules should and do differ in material respects. Because the commission has determined that it will not include any incentive or sharing mechanisms, there is less incentive for companies to "opportunistically" discontinue an ECRM. However, to the extent that parties in a general rate case may seek to oppose the discontinuance of an ECRM on the grounds that doing so would be a detriment to the public is perfectly reasonable. Therefore, the commission will insert the requested language in subsection (3)(A) as fully set forth below.

COMMENT #16 (4 CSR 240-20.091(3)(A)): In support of the rule, staff notes that adjustments to the ECRM will be usually based on large capital investments which will be depreciated. The proposed rules require that the ECRM reflect both the net increases and decreases in an electric utility's environmental costs, including the depreciation that accumulates as a reduction to rate base over time. These will also capture changes in environmental costs from the general rate case that are replaced with another type of environmental cost.

RESPONSE: No language change is necessitated by these comments.

COMMENT #17 (4 CSR 240-20.091(4)): In support of the rule, staff asserts that tracking costs to calculate net increases and decreases will not be burdensome. An electric utility could identify a limited number of specific environmental cost and revenue items on its books and records that would be considered in adjusting its ECRM.

RESPONSE: No language change is necessitated by these comments.

COMMENT #18 (4 CSR 240-20.091(4)(D)): In support of the rule, staff commented that, as to the number of filings to be made each year, two (2) filings each year (one (1) true-up and one (1) at the utility's discretion) are sufficient. Two (2) filings within the year should be able to capture those additional capital investments to meet the compliance rules. Environmental costs are not likely to fluctuate greatly in a short period of time. Before any of them are allowed in rates, the commission must determine that the equipment is "fully operational and used for service." Fewer adjustments will reduce the volatility of customer bills. The rate adjustment limit provision of SB 179 is annual and cumulative for each year.

RESPONSE: No language change is necessitated by these comments.

COMMENT #19 (4 CSR 240-20.091(5)(D)): In support of the rule, staff commented that the language in the ECRM rule provides for monthly application of interest, equal to the utility's average monthly short-term debt cost, to a utility's cumulative under- or over-recovery of ECRM costs. Important to managing environmental costs is a

long-term environmental compliance plan that is consistent with the electric utility's long-term resource plan.
RESPONSE: No language change is necessitated by these comments.

COMMENT #20 (4 CSR 240-20.091(11)): MIEC and OPC seek to insert a new section entitled "Incentive Mechanism or Performance-Based Program," which they assert is consistent with 4 CSR 240-20.090(11) (the fuel adjustment clause rule) and prior commission decisions, as follows:

(11) Incentive Mechanism or Performance-Based Program. During a general rate proceeding in which an electric utility has proposed establishment or modification of an ECRM, or in which an ECRM may be allowed to continue in effect, any party may propose for the commission's consideration incentive mechanisms or performance-based programs to improve the efficiency and cost effectiveness of the electric utility's environmental compliance planning and implementation activities.

(A) The incentive mechanisms or performance-based programs may or may not include some or all components of environmental costs, designed to provide the electric utility with incentives to improve the efficiency and cost-effectiveness of its environmental compliance planning and implementation activities.

(B) Any incentive mechanism or performance-based program shall be structured to align the interests of the electric utility's customers and shareholders. The anticipated benefits to the electric utility's customers from the incentive or performance-based program shall equal or exceed the anticipated costs of the mechanism or program to the electric utility's customers. For this purpose, the cost of an incentive mechanism or performance-based program shall include any increase in expense or reduction in revenue credit that increases rates to customers in any time period above what they would be without the incentive mechanism or performance-based program.

(C) If the commission approves an incentive mechanism or performance-based program, such incentive mechanism or performance-based program shall be binding on the commission for the entire term of the incentive mechanism or performance-based program. If the commission approves an incentive mechanism or performance-based program, such incentive mechanism or performance-based program shall be binding on the electric utility for the entire term of the incentive mechanism or performance-based program unless otherwise ordered or conditioned by the commission.

AmerenUE notes that the proposed language appears to be copied from the fuel adjustment clause rules into the ECRM rules. The problem is there is specific language in the fuel adjustment clause provisions of section 368.266, RSMo, that authorizes incentives. There is no such language in the environmental provisions of section 386.266, RSMo, and therefore, under very basic principles of statutory construction, the absence of that language precludes these types of incentive mechanisms. In addition, eligible costs are mandated by environmental regulation. They do not produce revenue, and many will reduce generating capability, thereby reducing revenues. For these reasons, incentive mechanisms for ECRMs are not only unlawful, but unfair and unwise.
RESPONSE: As discussed at length above in response to comments #5 and #7 and elsewhere, the commission remains convinced that, although subsection 1 of section 386.266, RSMo, pertaining to rate adjustment mechanisms for fuel and purchased power costs, includes language permitting incentive plans, subsection 2, pertaining to environmental cost recovery, does not. The commission is without authority to authorize any incentive- or performance-based plan in environmental cost recovery mechanisms. No change will be made as a result of this comment.

4 CSR 240-20.091 Electric Utility Environmental Cost Recovery Mechanisms

(1) Definitions. As used in this rule, the following terms mean as follows:

(D) The environmental revenue requirement shall be comprised of the following:

1. All expensed environmental costs (other than taxes and depreciation associated with capital projects) that are included in the electric utility's revenue requirement in the general rate proceeding in which the ECRM is established; and

2. The costs (i.e., the return, taxes, and depreciation) of any major capital projects whose primary purpose is to permit the electric utility to comply with any federal, state, or local environmental law, regulation, or rule. Representative examples of such capital projects to be included (as of the date of adoption of this rule) are electrostatic precipitators, fabric filters, nitrous oxide emissions control equipment, and flue gas desulfurization equipment. The costs of such capital projects shall be those identified on the electric utility's books and records as of the last day of the test year, as updated, utilized in the general rate proceeding in which the ECRM is established;

(2) Applications to Establish, Continue, or Modify an ECRM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 386.266, RSMo, only an electric utility in a general rate proceeding may file an application with the commission to establish, continue, or modify an ECRM by filing tariff schedules. Any party in a general rate proceeding in which an ECRM is in effect or proposed may seek to continue, modify, or oppose the ECRM. The commission shall approve, modify, or reject such applications to establish an ECRM only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.

(A) The commission may approve the establishment, continuation, or modification of an ECRM and rate schedules implementing an ECRM provided that it finds that the ECRM it approves is reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity. Any rate schedule approved to implement an ECRM must conform to the ECRM approved by the commission.

(3) Application for Discontinuation of an ECRM. The commission shall allow or require the rate schedules that define and implement an ECRM to be discontinued and withdrawn only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that affect the cost or overall rates and charges of the petitioning electric utility.

(A) Any party to the general rate proceeding may oppose the discontinuation of an ECRM on the grounds that the electric utility is currently experiencing, or in the next four (4) years is likely to experience, declining costs or on any other grounds that would result in a detriment to the public interest. If the commission finds that the electric utility is seeking to discontinue the ECRM under these circumstances, the commission shall not permit the ECRM to be discontinued, and shall order its continuation or modification. To continue or modify the ECRM under such circumstances, the commission must find that it provides the electric utility with a sufficient opportunity to earn a fair rate of return on equity.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs, and other items required to be published in the *Missouri Register* by law.

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 25—Motor Carrier Operations

IN ADDITION

7 CSR 10-25.010 Skill Performance Evaluation Certificates for Commercial Drivers

PUBLIC NOTICE

Public Notice and Request for Comments on Applications for Issuance of Skill Performance Evaluation Certificates to Intrastate Commercial Drivers with Diabetes Mellitus or Impaired Vision

SUMMARY: This notice publishes MoDOT's receipt of applications for the issuance of Skill Performance Evaluation (SPE) Certificates from individuals who do not meet the physical qualification requirements in the Federal Motor Carrier Safety Regulations for drivers of commercial motor vehicles in Missouri intrastate commerce because of impaired vision or an established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. If granted, the SPE Certificates will authorize these individuals to qualify as drivers of commercial motor vehicles (CMVs), in intrastate commerce only, without meeting the vision standard prescribed in 49 CFR 391.41(b)(10), if applicable, or the diabetes standard prescribed in 49 CFR 391.41(b)(3).

DATES: Comments must be received at the address stated below on or before July 15, 2009.

ADDRESSES: You may submit comments concerning an applicant, identified by the application number stated below, by any of the following methods:
• *Email: Kathy.Hatfield@modot.mo.gov*
• *Mail: PO Box 893, Jefferson City, MO 65102-0893*
• *Hand Delivery: 1320 Creek Trail Drive, Jefferson City, MO 65109*
• *Instructions:* All comments submitted must include the agency name and application number for this public notice. For detailed instructions on submitting comments, see the Public Participation heading of the Supplementary Information section of this notice. All comments received will be open and available for public inspection, and MoDOT may publish those comments by any available means.

COMMENTS RECEIVED BECOME MoDOT PUBLIC RECORD

• By submitting any comments to MoDOT, the person authorizes MoDOT to publish those comments by any available means.
• *Docket:* For access to the department's file to read background documents or comments received, 1320 Creek Trail Drive, Jefferson City, MO 65109, between 7:30 a.m. and 4:00 p.m., CT, Monday through Friday, except state holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Hatfield, Motor Carrier Specialist, (573) 522-9001, MoDOT Motor Carrier Services Division, PO Box 893, Jefferson City, MO 65102-0893. Office hours are from 7:30 a.m. to 4:00 p.m., CT, Monday through Friday, except state holidays.

SUPPLEMENTARY INFORMATION:

Public Participation
If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard.

Background
The individuals listed in this notice have recently filed applications requesting MoDOT to issue SPE Certificates to exempt them from the physical qualification requirements relating to vision in 49 CFR 391.41(b)(10), or to diabetes in 49 CFR 391.41(b)(3), which otherwise apply to drivers of CMVs in Missouri intrastate commerce.

Under section 622.555, RSMo Supp. 2008, MoDOT may issue a Skill Performance Evaluation Certificate, for not more than a two (2)-year period, if it finds that the applicant has the ability, while operating CMVs, to maintain a level of safety that is equivalent to or greater than the driver qualification standards of 49 CFR 391.41. Upon application, MoDOT may renew an exemption upon expiration.

Accordingly, the agency will evaluate the qualifications of each applicant to determine whether issuing an SPE Certificate will comply with the statutory requirements and will achieve the required level of safety. If granted, the SPE Certificate is only applicable to intrastate transportation wholly within Missouri.

Qualifications of Applicants

Application # MP090313010

Applicant's Name & Age: Hank Joseph Salmons, 45
Relevant Physical Condition: Mr. Salmons' best-corrected visual acuity is 20/20 Snellen in his left eye and 20/150 Snellen in his right eye. Mr. Salmons has had amblyopia in his right eye since childhood.

Relevant Driving Experience: Mr. Salmons has no current commercial motor vehicle driving experience. Drives personal vehicle(s) daily.

Doctor's Opinion & Date: Following an examination in March 2009, his opthalmologist certified, "In my medical opinion, Mr. Salmons visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and that his condition will not adversely affect his ability to operate a commercial motor vehicle safely."
Traffic Accidents and Violations: No accidents or violations within the past three (3) years.

Application # MP070605031

Renewal Applicant's Name & Age: William L. Dean, 60
Relevant Physical Condition: Mr. Dean's best corrected visual acuity in his right eye is 20/20 Snellen and his left eye is 20/50 Snellen, and he has amblyopia in his left eye (lazy left eye).

Relevant Driving Experience: Mr. Dean has been employed as a driver for Oats since May 2006. He has approximately fifteen (15) years of commercial motor vehicle driving experience. He currently has a Class E driver's license. Drives personal vehicle(s) daily.

Doctor's Opinion & Date: Following an examination in April 2009, his optometrist certified, "In my medical opinion, Mr. Dean's visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and that his condition will not adversely affect his ability to operate a commercial motor vehicle safely."
Traffic Accidents and Violations: No accidents or violations on record.

Request for Comments
The Missouri Department of Transportation, Motor Carrier Services Division, pursuant to section 622.555, RSMo, and rule 7 CSR 10-25.010, requests public comment from all interested persons on the applications for issuance of Skill Performance Evaluation Certificates described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in this notice.

Issued on: May 15, 2009

Jan Skouby, Motor Carrier Services Director, Missouri Department of Transportation.

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 25—Motor Carrier Operations

IN ADDITION

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DATES: Comments must be received at the address stated below on or before August 3, 2009.

ADDRESSES: You may submit comments concerning an applicant, identified by the application number stated below, by any of the following methods:
• *Email: Kathy.Hatfield@modot.mo.gov*
• *Mail: PO Box 893, Jefferson City, MO 65102-0893*
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• By submitting any comments to MoDOT, the person authorizes MoDOT to publish those comments by any available means.
• *Docket:* For access to the department's file to read background documents or comments received, 1320 Creek Trail Drive, Jefferson City, MO 65109, between 7:30 a.m. and 4:00 p.m., CT, Monday through Friday, except state holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Hatfield, Motor Carrier Specialist, (573) 522-9001, MoDOT Motor Carrier Services Division, PO Box 893, Jefferson City, MO 65102-0893. Office hours are from 7:30 a.m. to 4:00 p.m., CT, Monday through Friday, except state holidays.

SUPPLEMENTARY INFORMATION:

Public Participation
If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard.

Background
The individuals listed in this notice have recently filed applications requesting MoDOT to issue SPE Certificates to exempt them from the physical qualification requirements relating to vision in 49 CFR 391.41(b)(10), or to diabetes in 49 CFR 391.41(b)(3), which otherwise apply to drivers of CMVs in Missouri intrastate commerce.

Under section 622.555, RSMo Supp. 2008, MoDOT may issue a Skill Performance Evaluation Certificate, for not more than a two (2)-year period, if it finds that the applicant has the ability, while operating CMVs, to maintain a level of safety that is equivalent to or greater than the driver qualification standards of 49 CFR 391.41. Upon application, MoDOT may renew an exemption upon expiration.

Accordingly, the agency will evaluate the qualifications of each applicant to determine whether issuing an SPE Certificate will comply with the statutory requirements and will achieve the required level of safety. If granted, the SPE Certificate is only applicable to intrastate transportation wholly within Missouri.

Qualifications of Applicants

Application # MP090518017

Applicant's Name & Age: Bryan Lee Tanner, 34
Relevant Physical Condition: Mr. Tanner's best-corrected visual acuity is 20/15 Snellen in his right eye and 20/150 Snellen in his left eye. Mr. Tanner has had amblyopia in his left eye since birth.

Relevant Driving Experience: Mr. Tanner has approximately ten (10) years of commercial motor vehicle driving experience. Drives personal vehicle(s) daily.

Doctor's Opinion & Date: Following an examination in March 2009, his optometrist certified, "In my medical opinion, Mr. Tanner's visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and that his condition will not adversely affect his ability to operate a commercial motor vehicle safely."
Traffic Accidents and Violations: No accidents or violations in a commercial motor vehicle within the past three (3) years.

Request for Comments
The Missouri Department of Transportation, Motor Carrier Services Division, pursuant to section 622.555, RSMo, and rule 7 CSR 10-25.010, requests public comment from all interested persons on the applications for issuance of Skill Performance Evaluation Certificates described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in this notice.

Issued on: June 1, 2009

Jan Skouby, Motor Carrier Services Director, Missouri Department of Transportation.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EXPEDITED APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the expedited applications listed below. A decision is tentatively scheduled for July 22, 2009. These applications are available for public inspection at the address shown below:

Date Filed
Project Number: Project Name
City (County)
Cost, Description

06/09/09
#4341 HS: Phelps County Regional Medical Center
Rolla (Phelps County)
$2,244,505, Replace positron emission tomography (PET)/computerized tomography (CT) unit

06/10/09
#4376 NS: St. Mary's Institute of O'Fallon
O'Fallon (St. Charles County)
$1,793,760, Renovate/modernize long-term care (LTC) facility

#4340 RS: Kennett Residential Care
Kennett (Dunklin County)
$2,000,000, Replace 47-bed residential care facility

Any person wishing to request a public hearing for the purpose of commenting on this application must submit a written request to this effect, which must be received by July 13, 2009. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
Post Office Box 570
Jefferson City, MO 65102

For additional information contact
Donna Schuessler, (573) 751-6403.

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to dissolutions@sos.mo.gov.

NOTICE OF CORPORATE DISSOLUTION

TO ALL CREDITORS OF AND CLAIMANTS AGAINST

DISTRIBUTION RESOURCES, INC.

Effective April 27, 2009, DISTRIBUTION RESOURCES, INC., a Missouri corporation (the "Company"), filed its Articles of Dissolution with the Missouri Secretary of State and was voluntarily dissolved.

The Company requests that all persons and entities with claims against the Company present them in accordance with this notice.

All claims against the Company must be in writing and must include the name, address and telephone number of the claimant, the amount of the claim or other relief demanded, the basis of the claim, the date or dates on which the events occurred which provide a basis for the claim, and copies of any available document supporting the claim. All claims should be mailed to Michael A. Kaplan, Stinson Morrison Hecker LLP, 168 North Meramec Avenue, Suite 400, St. Louis, Missouri 63105.

Any claim against the Company will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of this notice.

Notice of Winding up for Werner Therapeutic Services, LLC

On May 19, 2009 Werner Therapeutic Services, LLC filed its notice of Winding up with the Missouri Secretary of State.

Persons with claims against the limited liability company should present them in accordance with the following procedure:

A. In order to file a claim with the limited liability company, you must furnish the following:
    1. Amount of the claim
    2. Basis for the claim
    3. Documentation of the claim.
B. The claim must be mailed to:
    D. Werner
    9901 Markhall Lane
    St. Louis, MO 63123

A claim against a limited liability company will be barred unless proceeding to enforce the claim is commenced within three years after publication of the notice.

NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST CRESTWOOD BOATS AND MOTORS, INC.

On May 14, 2009, Crestwood Boats and Motors, Inc. filed its Articles of Dissolution with the Missouri Secretary of State. The dissolution was effective on May 14, 2009.

You are hereby notified that if you believe you have a claim against Crestwood Boats and Motors, Inc., you must submit a summary in writing of the circumstances surrounding your claim to:

Rossiter & Boock, LLC
Attn: Crestwood Boats and Motors, Inc. Dissolution
8000 Maryland, Ave., Suite 930
St. Louis, Missouri 63105

The summary of your claim must include the following information:

1. The name, address and telephone number of the claimant.
2. The amount of the claim.
3. The date on which the event on which the claim is based occurred.
4. A brief description of the nature of the debt or the basis for the claim.

Any claim against Crestwood Boats and Motors, Inc. will be barred unless the creditor or claimant initiates a proceeding to enforce the claim within two years after the publication of this notice.

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—30 (2005) and 31 (2006). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
	OFFICE OF ADMINISTRATION				
1 CSR 10	State Officials' Salary Compensation Schedule				30 MoReg 2435
1 CSR 20-6.010	Personnel Advisory Board and Division of Personnel		This Issue		
	DEPARTMENT OF AGRICULTURE				
2 CSR 30-2.040	Animal Health		34 MoReg 1334		
2 CSR 30-10.010	Animal Health		34 MoReg 1175		
2 CSR 70-11.050	Plant Industries	33 MoReg 1795	34 MoReg 183	34 MoReg 1281	
2 CSR 90-10	Weights and Measures				33 MoReg 1193
2 CSR 100-2.020	Missouri Agricultural and Small Business Development Authority		34 MoReg 592	This Issue	
2 CSR 100-2.030	Missouri Agricultural and Small Business Development Authority		34 MoReg 592	This Issue	
2 CSR 100-2.040	Missouri Agricultural and Small Business Development Authority		34 MoReg 593	This Issue	
2 CSR 100-10.010	Missouri Agricultural and Small Business Development Authority		34 MoReg 595	This Issue	
	DEPARTMENT OF CONSERVATION				
3 CSR 10-5.205	Conservation Commission		33 MoReg 2095 34 MoReg 1275	34 MoReg 1123	
3 CSR 10-5.215	Conservation Commission		33 MoReg 2097 34 MoReg 1275	34 MoReg 1123	
3 CSR 10-5.220	Conservation Commission		33 MoReg 2097	34 MoReg 1123	
3 CSR 10-5.222	Conservation Commission		33 MoReg 2097	34 MoReg 1124	
3 CSR 10-5.225	Conservation Commission		33 MoReg 2098	34 MoReg 1124	
3 CSR 10-5.310	Conservation Commission		33 MoReg 2100	34 MoReg 1124	
3 CSR 10-5.320	Conservation Commission		33 MoReg 2101	34 MoReg 1125	
3 CSR 10-5.375	Conservation Commission		34 MoReg 831R	This IssueR	
3 CSR 10-5.420	Conservation Commission		33 MoReg 2122R	34 MoReg 1125R	
3 CSR 10-5.430	Conservation Commission		33 MoReg 2124	34 MoReg 1125	
3 CSR 10-5.436	Conservation Commission		33 MoReg 2128	34 MoReg 1125	
3 CSR 10-5.540	Conservation Commission		33 MoReg 2134	34 MoReg 1125	
3 CSR 10-5.545	Conservation Commission		33 MoReg 2136	34 MoReg 1126	
3 CSR 10-5.551	Conservation Commission		33 MoReg 2138	34 MoReg 1126	
3 CSR 10-5.552	Conservation Commission		33 MoReg 2140	34 MoReg 1126	
3 CSR 10-5.554	Conservation Commission		33 MoReg 2142	34 MoReg 1126	
3 CSR 10-5.559	Conservation Commission		33 MoReg 2144	34 MoReg 1127	
3 CSR 10-5.560	Conservation Commission		33 MoReg 2146	34 MoReg 1127	
3 CSR 10-5.565	Conservation Commission		33 MoReg 2148	34 MoReg 1127	
3 CSR 10-5.567	Conservation Commission		33 MoReg 2150	34 MoReg 1127	
3 CSR 10-5.570	Conservation Commission		33 MoReg 2152	34 MoReg 1127	
3 CSR 10-5.576	Conservation Commission		33 MoReg 2154R	34 MoReg 1128R	
3 CSR 10-5.579	Conservation Commission		33 MoReg 2156R	34 MoReg 1128R	
3 CSR 10-5.580	Conservation Commission		33 MoReg 2158R	34 MoReg 1128R	
3 CSR 10-6.550	Conservation Commission		34 MoReg 831	This Issue	
3 CSR 10-7.410	Conservation Commission		34 MoReg 831	This Issue	
3 CSR 10-7.425	Conservation Commission		34 MoReg 832	This Issue	
3 CSR 10-7.432	Conservation Commission		N.A.	34 MoReg 1281	
3 CSR 10-7.433	Conservation Commission		N.A.	34 MoReg 1281	
3 CSR 10-7.435	Conservation Commission		N.A.	34 MoReg 1282	
3 CSR 10-7.437	Conservation Commission		N.A.	34 MoReg 1282	
3 CSR 10-7.455	Conservation Commission		33 MoReg 2165	34 MoReg 1128	34 MoReg 241
3 CSR 10-8.510	Conservation Commission		34 MoReg 832	This Issue	
3 CSR 10-8.515	Conservation Commission		34 MoReg 832	This Issue	
3 CSR 10-9.110	Conservation Commission		34 MoReg 834	This Issue	
3 CSR 10-9.353	Conservation Commission		34 MoReg 834	This Issue	
3 CSR 10-9.442	Conservation Commission		34 MoReg 835	This Issue	
3 CSR 10-9.565	Conservation Commission		34 MoReg 836	This Issue	
3 CSR 10-10.722	Conservation Commission		33 MoReg 2173	34 MoReg 1129	
3 CSR 10-10.724	Conservation Commission		33 MoReg 2174	34 MoReg 1129	
3 CSR 10-10.725	Conservation Commission		33 MoReg 2176	34 MoReg 1129	
3 CSR 10-10.726	Conservation Commission		33 MoReg 2176	34 MoReg 1129	
3 CSR 10-10.727	Conservation Commission		33 MoReg 2176	34 MoReg 1129	
3 CSR 10-10.728	Conservation Commission		33 MoReg 2177	34 MoReg 1130	
3 CSR 10-11.110	Conservation Commission		34 MoReg 837	This Issue	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
3 CSR 10-11.155	Conservation Commission		34 MoReg 837	This Issue	
3 CSR 10-11.160	Conservation Commission		34 MoReg 837	This Issue	
3 CSR 10-11.180	Conservation Commission		34 MoReg 838	This Issue	
3 CSR 10-11.186	Conservation Commission		34 MoReg 838	This Issue	
3 CSR 10-12.110	Conservation Commission		34 MoReg 838	This Issue	
3 CSR 10-12.115	Conservation Commission		34 MoReg 839	This Issue	
3 CSR 10-12.125	Conservation Commission		34 MoReg 840	This Issue	
3 CSR 10-12.135	Conservation Commission		34 MoReg 840	This Issue	
3 CSR 10-12.140	Conservation Commission		34 MoReg 841	This Issue	
3 CSR 10-12.145	Conservation Commission		34 MoReg 841	This Issue	
3 CSR 10-20.805	Conservation Commission		33 MoReg 2191 34 MoReg 1276	34 MoReg 1130	
	DEPARTMENT OF ECONOMIC DEVELOPMENT				
4 CSR 240-2.020	Public Service Commission		34 MoReg 1175R		
4 CSR 240-3.162	Public Service Commission		34 MoReg 187 34 MoReg 595	This Issue This Issue	34 MoReg 240RAN
4 CSR 240-3.240	Public Service Commission		34 MoReg 842R		
4 CSR 240-3.330	Public Service Commission		34 MoReg 842R		
4 CSR 240-3.440	Public Service Commission		34 MoReg 843R		
4 CSR 240-3.635	Public Service Commission		34 MoReg 843R		
4 CSR 240-20.065	Public Service Commission		34 MoReg 659		
4 CSR 240-20.091	Public Service Commission		34 MoReg 196 34 MoReg 605	This Issue This Issue	34 MoReg 240RAN
4 CSR 240-126.010	Public Service Commission		34 MoReg 1176		
4 CSR 240-126.020	Public Service Commission		34 MoReg 1176		
	DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION				
5 CSR 30-4.030	Division of Administrative and Financial Services		34 MoReg 1177R 34 MoReg 1178		
5 CSR 30-640.100	Division of Administrative and Financial Services		34 MoReg 113	34 MoReg 1354	
5 CSR 80-800.200	Teacher Quality and Urban Education		34 MoReg 368		
5 CSR 80-800.220	Teacher Quality and Urban Education		34 MoReg 368		
5 CSR 80-800.230	Teacher Quality and Urban Education		34 MoReg 369		
5 CSR 80-800.260	Teacher Quality and Urban Education		34 MoReg 369		
5 CSR 80-800.270	Teacher Quality and Urban Education		34 MoReg 370		
5 CSR 80-800.280	Teacher Quality and Urban Education		34 MoReg 370		
5 CSR 80-800.350	Teacher Quality and Urban Education		34 MoReg 370		
5 CSR 80-800.360	Teacher Quality and Urban Education		34 MoReg 372		
5 CSR 80-800.380	Teacher Quality and Urban Education		34 MoReg 372		
	DEPARTMENT OF HIGHER EDUCATION				
6 CSR 10-2.010	Commissioner of Higher Education		34 MoReg 115R	34 MoReg 1131R	
6 CSR 10-2.020	Commissioner of Higher Education		34 MoReg 115R	34 MoReg 1131R	
6 CSR 10-2.080	Commissioner of Higher Education		34 MoReg 115	34 MoReg 1131	
6 CSR 10-2.100	Commissioner of Higher Education		34 MoReg 660		
6 CSR 10-2.120	Commissioner of Higher Education		34 MoReg 662		
6 CSR 10-2.130	Commissioner of Higher Education		34 MoReg 665		
6 CSR 10-2.140	Commissioner of Higher Education		34 MoReg 119	34 MoReg 1131	
6 CSR 10-2.150	Commissioner of Higher Education		34 MoReg 121	34 MoReg 1132	
6 CSR 10-2.160	Commissioner of Higher Education		34 MoReg 122	34 MoReg 1132	
6 CSR 10-2.170	Commissioner of Higher Education		34 MoReg 124	34 MoReg 1132	
	DEPARTMENT OF TRANSPORTATION				
7 CSR 10-23.010	Missouri Highways and Transportation Commission		33 MoReg 2426	34 MoReg 1215	
7 CSR 10-23.020	Missouri Highways and Transportation Commission		33 MoReg 2427	34 MoReg 1215	
7 CSR 10-23.030	Missouri Highways and Transportation Commission		33 MoReg 2428	34 MoReg 1215	
7 CSR 10-25.010	Missouri Highways and Transportation Commission				34 MoReg 796 34 MoReg 1359 This Issue
7 CSR 60-2.010	Highway Safety Division	34 MoReg 1321	34 MoReg 1340		
7 CSR 60-2.020	Highway Safety Division		34 MoReg 1341		
7 CSR 60-2.030	Highway Safety Division	34 MoReg 1322	34 MoReg 1342		
7 CSR 60-2.040	Highway Safety Division	34 MoReg 1324	34 MoReg 1347		
7 CSR 60-2.050	Highway Safety Division		34 MoReg 1348		
7 CSR 60-2.060	Highway Safety Division		34 MoReg 1349		
	DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS				
8 CSR 30-6.010	Division of Labor Standards	This Issue	This Issue		
8 CSR 60-1.010	Missouri Commission on Human Rights		34 MoReg 763		
8 CSR 60-2.065	Missouri Commission on Human Rights		34 MoReg 763		
8 CSR 60-2.130	Missouri Commission on Human Rights		34 MoReg 764		
8 CSR 60-2.150	Missouri Commission on Human Rights		34 MoReg 765		
8 CSR 60-2.200	Missouri Commission on Human Rights		34 MoReg 765		
8 CSR 60-2.210	Missouri Commission on Human Rights		34 MoReg 765		
8 CSR 60-4.015	Missouri Commission on Human Rights		34 MoReg 766		
8 CSR 60-4.020	Missouri Commission on Human Rights		34 MoReg 766		
8 CSR 60-4.030	Missouri Commission on Human Rights		34 MoReg 766		
	DEPARTMENT OF NATURAL RESOURCES				
10 CSR 10-5.570	Air Conservation Commission		34 MoReg 199		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
10 CSR 10-6.045	Air Conservation Commission		34 MoReg 205		
10 CSR 10-6.060	Air Conservation Commission		33 MoReg 2192	34 MoReg 1283	
10 CSR 10-6.100	Air Conservation Commission		33 MoReg 2204	34 MoReg 1286	
10 CSR 10-6.120	Air Conservation Commission		34 MoReg 206		
10 CSR 10-6.260	Air Conservation Commission		34 MoReg 208		
10 CSR 10-6.320	Air Conservation Commission		34 MoReg 212R		
10 CSR 10-6.350	Air Conservation Commission		33 MoReg 2315	34 MoReg 1286	
10 CSR 10-6.360	Air Conservation Commission		33 MoReg 2316	34 MoReg 1287	
10 CSR 10-6.410	Air Conservation Commission		33 MoReg 2206	34 MoReg 1287	
10 CSR 20-4.040	Clean Water Commission	34 MoReg 1326	This Issue		
10 CSR 20-4.061	Clean Water Commission		34 MoReg 767		
10 CSR 20-6.010	Clean Water Commission		34 MoReg 772		
10 CSR 20-6.200	Clean Water Commission		34 MoReg 377		
10 CSR 20-7.031	Clean Water Commission	33 MoReg 2415	34 MoReg 379		
10 CSR 20-7.050	Clean Water Commission	33 MoReg 1855	33 MoReg 1870	34 MoReg 1215	
10 CSR 20-10.010	Clean Water Commission *(Changed to 10 CSR 26-2.010)*		34 MoReg 843		
10 CSR 20-10.011	Clean Water Commission *(Changed to 10 CSR 26-2.011)*		34 MoReg 845		
10 CSR 20-10.012	Clean Water Commission *(Changed to 10 CSR 26-2.012)*		34 MoReg 845		
10 CSR 20-10.020	Clean Water Commission *(Changed to 10 CSR 26-2.020)*		34 MoReg 847		
10 CSR 20-10.021	Clean Water Commission *(Changed to 10 CSR 26-2.021)*		34 MoReg 849		
10 CSR 20-10.022	Clean Water Commission *(Changed to 10 CSR 26-2.022)*		34 MoReg 849		
10 CSR 20-10.030	Clean Water Commission *(Changed to 10 CSR 26-2.030)*		34 MoReg 850		
10 CSR 20-10.031	Clean Water Commission *(Changed to 10 CSR 26-2.031)*		34 MoReg 851		
10 CSR 20-10.032	Clean Water Commission *(Changed to 10 CSR 26-2.032)*		34 MoReg 851		
10 CSR 20-10.033	Clean Water Commission *(Changed to 10 CSR 26-2.033)*		34 MoReg 851		
10 CSR 20-10.034	Clean Water Commission *(Changed to 10 CSR 26-2.034)*		34 MoReg 852		
10 CSR 20-10.040	Clean Water Commission *(Changed to 10 CSR 26-2.040)*		34 MoReg 853		
10 CSR 20-10.041	Clean Water Commission *(Changed to 10 CSR 26-2.041)*		34 MoReg 854		
10 CSR 20-10.042	Clean Water Commission *(Changed to 10 CSR 26-2.042)*		34 MoReg 854		
10 CSR 20-10.043	Clean Water Commission *(Changed to 10 CSR 26-2.043)*		34 MoReg 855		
10 CSR 20-10.044	Clean Water Commission *(Changed to 10 CSR 26-2.044)*		34 MoReg 857		
10 CSR 20-10.045	Clean Water Commission *(Changed to 10 CSR 26-2.045)*		34 MoReg 857		
10 CSR 20-10.050	Clean Water Commission *(Changed to 10 CSR 26-2.050)*		34 MoReg 858		
10 CSR 20-10.051	Clean Water Commission *(Changed to 10 CSR 26-2.051)*		34 MoReg 862		
10 CSR 20-10.052	Clean Water Commission *(Changed to 10 CSR 26-2.052)*		34 MoReg 862		
10 CSR 20-10.053	Clean Water Commission *(Changed to 10 CSR 26-2.053)*		34 MoReg 863		
10 CSR 20-10.060	Clean Water Commission *(Changed to 10 CSR 26-2.070)*		34 MoReg 866		
10 CSR 20-10.061	Clean Water Commission *(Changed to 10 CSR 26-2.071)*		34 MoReg 866		
10 CSR 20-10.062	Clean Water Commission *(Changed to 10 CSR 26-2.072)*		34 MoReg 871		
10 CSR 20-10.063	Clean Water Commission *(Changed to 10 CSR 26-2.073)*		34 MoReg 877		
10 CSR 20-10.064	Clean Water Commission *(Changed to 10 CSR 26-2.074)*		34 MoReg 877		
10 CSR 20-10.065	Clean Water Commission		34 MoReg 884R		
10 CSR 20-10.066	Clean Water Commission		34 MoReg 884R		
10 CSR 20-10.067	Clean Water Commission		34 MoReg 884R		
10 CSR 20-10.068	Clean Water Commission		34 MoReg 885R		
10 CSR 20-10.070	Clean Water Commission *(Changed to 10 CSR 26-2.060)*		34 MoReg 885		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
10 CSR 20-10.071	Clean Water Commission *(Changed to 10 CSR 26-2.061)*		34 MoReg 885		
10 CSR 20-10.072	Clean Water Commission *(Changed to 10 CSR 26-2.062)*		34 MoReg 886		
10 CSR 20-10.073	Clean Water Commission *(Changed to 10 CSR 26-2.063)*		34 MoReg 890		
10 CSR 20-10.074	Clean Water Commission *(Changed to 10 CSR 26-2.064)*		34 MoReg 890		
10 CSR 20-11.090	Clean Water Commission *(Changed to 10 CSR 26-3.090)*		34 MoReg 890		
10 CSR 20-11.091	Clean Water Commission *(Changed to 10 CSR 26-3.091)*		34 MoReg 891		
10 CSR 20-11.092	Clean Water Commission *(Changed to 10 CSR 26-3.092)*		34 MoReg 891		
10 CSR 20-11.093	Clean Water Commission *(Changed to 10 CSR 26-3.093)*		34 MoReg 892		
10 CSR 20-11.094	Clean Water Commission *(Changed to 10 CSR 26-3.094)*		34 MoReg 892		
10 CSR 20-11.095	Clean Water Commission *(Changed to 10 CSR 26-3.095)*		34 MoReg 896		
10 CSR 20-11.096	Clean Water Commission *(Changed to 10 CSR 26-3.096)*		34 MoReg 897		
10 CSR 20-11.097	Clean Water Commission *(Changed to 10 CSR 26-3.097)*		34 MoReg 900		
10 CSR 20-11.098	Clean Water Commission *(Changed to 10 CSR 26-3.098)*		34 MoReg 903		
10 CSR 20-11.099	Clean Water Commission *(Changed to 10 CSR 26-3.099)*		34 MoReg 906		
10 CSR 20-11.101	Clean Water Commission *(Changed to 10 CSR 26-3.101)*		34 MoReg 908		
10 CSR 20-11.102	Clean Water Commission *(Changed to 10 CSR 26-3.102)*		34 MoReg 908		
10 CSR 20-11.103	Clean Water Commission *(Changed to 10 CSR 26-3.103)*		34 MoReg 909		
10 CSR 20-11.104	Clean Water Commission *(Changed to 10 CSR 26-3.104)*		34 MoReg 914		
10 CSR 20-11.105	Clean Water Commission *(Changed to 10 CSR 26-3.105)*		34 MoReg 914		
10 CSR 20-11.106	Clean Water Commission *(Changed to 10 CSR 26-3.106)*		34 MoReg 915		
10 CSR 20-11.107	Clean Water Commission *(Changed to 10 CSR 26-3.107)*		34 MoReg 915		
10 CSR 20-11.108	Clean Water Commission *(Changed to 10 CSR 26-3.108)*		34 MoReg 918		
10 CSR 20-11.109	Clean Water Commission *(Changed to 10 CSR 26-3.109)*		34 MoReg 920		
10 CSR 20-11.110	Clean Water Commission *(Changed to 10 CSR 26-3.110)*		34 MoReg 920		
10 CSR 20-11.111	Clean Water Commission *(Changed to 10 CSR 26-3.111)*		34 MoReg 921		
10 CSR 20-11.112	Clean Water Commission *(Changed to 10 CSR 26-3.112)*		34 MoReg 921		
10 CSR 20-11.113	Clean Water Commission *(Changed to 10 CSR 26-3.113)*		34 MoReg 925		
10 CSR 20-11.114	Clean Water Commission *(Changed to 10 CSR 26-3.114)*		34 MoReg 928		
10 CSR 20-11.115	Clean Water Commission *(Changed to 10 CSR 26-3.115)*		34 MoReg 935		
10 CSR 20-13.080	Clean Water Commission *(Changed to 10 CSR 26-4.080)*		34 MoReg 937		
10 CSR 20-15.010	Clean Water Commission *(Changed to 10 CSR 26-5.010)*		34 MoReg 937		
10 CSR 20-15.020	Clean Water Commission *(Changed to 10 CSR 26-5.020)*		34 MoReg 938		
10 CSR 20-15.030	Clean Water Commission *(Changed to 10 CSR 26-5.030)*		34 MoReg 938		
10 CSR 23-2.010	Division of Geology and Land Survey				34 MoReg 1225
10 CSR 25-3.260	Hazardous Waste Management Commission		33 MoReg 2207	34 MoReg 1132	
10 CSR 25-4.261	Hazardous Waste Management Commission		33 MoReg 2209	34 MoReg 1132	
10 CSR 25-5.262	Hazardous Waste Management Commission		33 MoReg 2210	34 MoReg 1132	
10 CSR 25-6.263	Hazardous Waste Management Commission		33 MoReg 2214	34 MoReg 1134	
10 CSR 25-7.264	Hazardous Waste Management Commission		33 MoReg 2215	34 MoReg 1134	
10 CSR 25-7.265	Hazardous Waste Management Commission		33 MoReg 2219	34 MoReg 1134	
10 CSR 25-7.266	Hazardous Waste Management Commission		33 MoReg 2222	34 MoReg 1134	
10 CSR 25-7.268	Hazardous Waste Management Commission		33 MoReg 2223	34 MoReg 1134	
10 CSR 25-7.270	Hazardous Waste Management Commission		33 MoReg 2223	34 MoReg 1135	
10 CSR 25-11.279	Hazardous Waste Management Commission		33 MoReg 2225	34 MoReg 1135	
10 CSR 25-12.010	Hazardous Waste Management Commission		33 MoReg 2226	34 MoReg 1135	
10 CSR 25-13.010	Hazardous Waste Management Commission		33 MoReg 2228	34 MoReg 1135	
10 CSR 25-16.273	Hazardous Waste Management Commission		33 MoReg 2230	34 MoReg 1135	

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10 CSR 25-18.010	Hazardous Waste Management Commission		34 MoReg 527		
10 CSR 26-1.010	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 939		
10 CSR 26-2.010	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.010)*		34 MoReg 843		
10 CSR 26-2.011	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.011)*		34 MoReg 845		
10 CSR 26-2.012	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.012)*		34 MoReg 845		
10 CSR 26-2.020	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.020)*		34 MoReg 847		
10 CSR 26-2.021	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.021)*		34 MoReg 849		
10 CSR 26-2.022	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.022)*		34 MoReg 849		
10 CSR 26-2.030	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.030)*		34 MoReg 850		
10 CSR 26-2.031	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.031)*		34 MoReg 851		
10 CSR 26-2.032	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.032)*		34 MoReg 851		
10 CSR 26-2.033	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.033)*		34 MoReg 851		
10 CSR 26-2.034	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.034)*		34 MoReg 852		
10 CSR 26-2.040	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.040)*		34 MoReg 853		
10 CSR 26-2.041	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.041)*		34 MoReg 854		
10 CSR 26-2.042	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.042)*		34 MoReg 854		
10 CSR 26-2.043	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.043)*		34 MoReg 855		
10 CSR 26-2.044	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.044)*		34 MoReg 857		
10 CSR 26-2.045	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.045)*		34 MoReg 857		
10 CSR 26-2.050	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.050)*		34 MoReg 858		
10 CSR 26-2.051	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.051)*		34 MoReg 862		
10 CSR 26-2.052	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.052)*		34 MoReg 862		
10 CSR 26-2.053	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.053)*		34 MoReg 863		
10 CSR 26-2.060	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.070)*		34 MoReg 885		
10 CSR 26-2.061	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.071)*		34 MoReg 885		
10 CSR 26-2.062	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.072)*		34 MoReg 886		
10 CSR 26-2.063	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.073)*		34 MoReg 890		
10 CSR 26-2.064	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.074)*		34 MoReg 890		
10 CSR 26-2.070	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.060)*		34 MoReg 866		
10 CSR 26-2.071	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.061)*		34 MoReg 866		
10 CSR 26-2.072	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.062)*		34 MoReg 871		
10 CSR 26-2.073	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.063)*		34 MoReg 877		
10 CSR 26-2.074	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-10.064)*		34 MoReg 877		
10 CSR 26-2.075	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 939		
10 CSR 26-2.076	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 956		
10 CSR 26-2.077	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 968		
10 CSR 26-2.078	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 978		
10 CSR 26-2.079	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 991		
10 CSR 26-2.080	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 1004		
10 CSR 26-2.081	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 1009		
10 CSR 26-2.082	Petroleum and Hazardous Substance Storage Tanks		34 MoReg 1020		
10 CSR 26-3.090	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.090)*		34 MoReg 890		
10 CSR 26-3.091	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.091)*		34 MoReg 891		
10 CSR 26-3.092	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.092)*		34 MoReg 891		
10 CSR 26-3.093	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.093)*		34 MoReg 892		

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10 CSR 26-3.094	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.094)*		34 MoReg 892		
10 CSR 26-3.095	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.095)*		34 MoReg 896		
10 CSR 26-3.096	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.096)*		34 MoReg 897		
10 CSR 26-3.097	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.097)*		34 MoReg 900		
10 CSR 26-3.098	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.098)*		34 MoReg 903		
10 CSR 26-3.099	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.099)*		34 MoReg 906		
10 CSR 26-3.101	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.101)*		34 MoReg 908		
10 CSR 26-3.102	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.102)*		34 MoReg 908		
10 CSR 26-3.103	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.103)*		34 MoReg 909		
10 CSR 26-3.104	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.104)*		34 MoReg 914		
10 CSR 26-3.105	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.105)*		34 MoReg 914		
10 CSR 26-3.106	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.106)*		34 MoReg 915		
10 CSR 26-3.107	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.107)*		34 MoReg 915		
10 CSR 26-3.108	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.108)*		34 MoReg 918		
10 CSR 26-3.109	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.109)*		34 MoReg 920		
10 CSR 26-3.110	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.110)*		34 MoReg 920		
10 CSR 26-3.111	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.111)*		34 MoReg 921		
10 CSR 26-3.112	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.112)*		34 MoReg 921		
10 CSR 26-3.113	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.113)*		34 MoReg 925		
10 CSR 26-3.114	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.114)*		34 MoReg 928		
10 CSR 26-3.115	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-11.115)*		34 MoReg 935		
10 CSR 26-4.080	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-13.080)*		34 MoReg 937		
10 CSR 26-5.010	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-15.010)*		34 MoReg 937		
10 CSR 26-5.020	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-15.020)*		34 MoReg 938		
10 CSR 26-5.030	Petroleum and Hazardous Substance Storage Tanks *(Changed from 10 CSR 20-15.030)*		34 MoReg 938		
10 CSR 60-2.015	Safe Drinking Water Commission		33 MoReg 1964 34 MoReg 667		
10 CSR 60-4.052	Safe Drinking Water Commission		33 MoReg 1967 34 MoReg 671		
10 CSR 60-4.090	Safe Drinking Water Commission		33 MoReg 1991 34 MoReg 695		
10 CSR 60-4.092	Safe Drinking Water Commission		33 MoReg 1996 34 MoReg 701		
10 CSR 60-4.094	Safe Drinking Water Commission		33 MoReg 1996 34 MoReg 701		
10 CSR 60-5.010	Safe Drinking Water Commission		33 MoReg 2006 34 MoReg 711		
10 CSR 60-7.010	Safe Drinking Water Commission		33 MoReg 2006 34 MoReg 711		
10 CSR 60-8.010	Safe Drinking Water Commission		33 MoReg 2010 34 MoReg 715		
10 CSR 60-8.030	Safe Drinking Water Commission		33 MoReg 2014 34 MoReg 719		
10 CSR 60-9.010	Safe Drinking Water Commission		33 MoReg 2018 34 MoReg 723		
10 CSR 60-13.020	Safe Drinking Water Commission	This Issue			
10 CSR 70-9.010	Soil and Water Districts Commission		33 MoReg 1722		
10 CSR 100-4.020	Petroleum Storage Tank Insurance Fund Board of Trustees		34 MoReg 1182		
10 CSR 140-2	Division of Energy				33 MoReg 1103 33 MoReg 1193
	DEPARTMENT OF PUBLIC SAFETY				
11 CSR 40-2.025	Division of Fire Safety	34 MoReg 175	34 MoReg 212	34 MoReg 1216	

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11 CSR 45-49	Missouri Gaming Commission *(Changed from 12 CSR 50-1)*				34 MoReg 1225
11 CSR 45-50	Missouri Gaming Commission *(Changed from 12 CSR 50-10)*				34 MoReg 1225
11 CSR 45-51	Missouri Gaming Commission *(Changed from 12 CSR 50-11)*				34 MoReg 1225
11 CSR 45-52	Missouri Gaming Commission *(Changed from 12 CSR 50-12)*				34 MoReg 1226
11 CSR 45-53	Missouri Gaming Commission *(Changed from 12 CSR 50-13)*				34 MoReg 1226
11 CSR 45-55	Missouri Gaming Commission *(Changed from 12 CSR 50-15)*				34 MoReg 1226
11 CSR 45-59	Missouri Gaming Commission *(Changed from 12 CSR 50-19)*				34 MoReg 1227
11 CSR 45-60	Missouri Gaming Commission *(Changed from 12 CSR 50-20)*				34 MoReg 1227
11 CSR 45-61	Missouri Gaming Commission *(Changed from 12 CSR 50-30)*				34 MoReg 1227
11 CSR 45-62	Missouri Gaming Commission *(Changed from 12 CSR 50-40)*				34 MoReg 1228
11 CSR 45-65	Missouri Gaming Commission *(Changed from 12 CSR 50-50)*				34 MoReg 1228
11 CSR 45-67	Missouri Gaming Commission *(Changed from 12 CSR 50-60)*				34 MoReg 1228
11 CSR 45-70	Missouri Gaming Commission *(Changed from 12 CSR 50-70)*				34 MoReg 1229
11 CSR 45-80	Missouri Gaming Commission *(Changed from 12 CSR 50-80)*				34 MoReg 1229
11 CSR 45-90	Missouri Gaming Commission *(Changed from 12 CSR 50-90)*				34 MoReg 1229
11 CSR 80-5.010	Missouri State Water Patrol		34 MoReg 282		
11 CSR 85-1.010	Veterans' Affairs		34 MoReg 284	34 MoReg 1288	
11 CSR 85-1.015	Veterans' Affairs		34 MoReg 285	34 MoReg 1288	
11 CSR 85-1.020	Veterans' Affairs		34 MoReg 285	34 MoReg 1288	
11 CSR 85-1.040	Veterans' Affairs		34 MoReg 286	34 MoReg 1288	
11 CSR 85-1.050	Veterans' Affairs		34 MoReg 286	34 MoReg 1288	
	DEPARTMENT OF REVENUE				
12 CSR 10-7.320	Director of Revenue		34 MoReg 215R		
12 CSR 10-16.170	Director of Revenue		34 MoReg 215R		
12 CSR 10-41.010	Director of Revenue	33 MoReg 2307	33 MoReg 2326	34 MoReg 727	
12 CSR 30-2.018	State Tax Commission		34 MoReg 1276		
12 CSR 30-3.010	State Tax Commission		34 MoReg 1276		
12 CSR 50-1	Missouri Horse Racing Commission *(Changed to 11 CSR 45-49)*				34 MoReg 1225
12 CSR 50-10	Missouri Horse Racing Commission *(Changed to 11 CSR 45-50)*				34 MoReg 1225
12 CSR 50-11	Missouri Horse Racing Commission *(Changed to 11 CSR 45-51)*				34 MoReg 1225
12 CSR 50-12	Missouri Horse Racing Commission *(Changed to 11 CSR 45-52)*				34 MoReg 1226
12 CSR 50-13	Missouri Horse Racing Commission *(Changed to 11 CSR 45-53)*				34 MoReg 1226
12 CSR 50-15	Missouri Horse Racing Commission *(Changed to 11 CSR 45-55)*				34 MoReg 1226
12 CSR 50-19	Missouri Horse Racing Commission *(Changed to 11 CSR 45-59)*				34 MoReg 1227
12 CSR 50-20	Missouri Horse Racing Commission *(Changed to 11 CSR 45-60)*				34 MoReg 1227
12 CSR 50-30	Missouri Horse Racing Commission *(Changed to 11 CSR 45-61)*				34 MoReg 1227
12 CSR 50-40	Missouri Horse Racing Commission *(Changed to 11 CSR 45-62)*				34 MoReg 1228
12 CSR 50-50	Missouri Horse Racing Commission *(Changed to 11 CSR 45-65)*				34 MoReg 1228
12 CSR 50-60	Missouri Horse Racing Commission *(Changed to 11 CSR 45-67)*				34 MoReg 1228
12 CSR 50-70	Missouri Horse Racing Commission *(Changed to 11 CSR 45-70)*				34 MoReg 1229
12 CSR 50-80	Missouri Horse Racing Commission *(Changed to 11 CSR 45-80)*				34 MoReg 1229
12 CSR 50-90	Missouri Horse Racing Commission *(Changed to 11 CSR 45-90)*				34 MoReg 1229

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	DEPARTMENT OF SOCIAL SERVICES				
13 CSR 30-3.010	Child Support Enforcement *(Changed to 13 CSR 40-3.010)*		34 MoReg 16	34 MoReg 1216	
13 CSR 30-3.020	Child Support Enforcement *(Changed to 13 CSR 40-3.020)*		34 MoReg 16	34 MoReg 1216	
13 CSR 40-3.010	Family Support Division *(Changed from 13 CSR 30-3.010)*		34 MoReg 16	34 MoReg 1216	
13 CSR 40-3.020	Family Support Division *(Changed from 13 CSR 30-3.020)*		34 MoReg 16	34 MoReg 1216	
13 CSR 70-3.120	MO HealthNet Division		34 MoReg 1350		
13 CSR 70-3.180	MO HealthNet Division		34 MoReg 723		
13 CSR 70-3.190	MO HealthNet Division		34 MoReg 608		
13 CSR 70-4.090	MO HealthNet Division		34 MoReg 1350		
13 CSR 70-4.120	MO HealthNet Division		33 MoReg 440		
13 CSR 70-15.200	MO HealthNet Division		33 MoReg 2430	34 MoReg 1216	
13 CSR 70-55.010	MO HealthNet Division		34 MoReg 1353		
13 CSR 70-60.010	MO HealthNet Division		34 MoReg 286	34 MoReg 1354	
	ELECTED OFFICIALS				
15 CSR 30-50.010	Secretary of State		This Issue		
15 CSR 30-50.030	Secretary of State		This Issue		
15 CSR 30-51.030	Secretary of State		This Issue		
15 CSR 30-51.171	Secretary of State		This Issue		
15 CSR 30-53.010	Secretary of State		This Issue		
15 CSR 30-59.010	Secretary of State		This Issue		
15 CSR 60-15.010	Attorney General	34 MoReg 651	34 MoReg 724		
15 CSR 60-15.020	Attorney General	34 MoReg 651	34 MoReg 724		
15 CSR 60-15.030	Attorney General	34 MoReg 652	34 MoReg 725		
15 CSR 60-15.040	Attorney General	34 MoReg 652	34 MoReg 725		
15 CSR 60-15.050	Attorney General	34 MoReg 653	34 MoReg 726		
	RETIREMENT SYSTEMS				
16 CSR 50-2.090	The County Employees' Retirement Fund		34 MoReg 215	34 MoReg 1288	
16 CSR 50-3.010	The County Employees' Retirement Fund		34 MoReg 216	34 MoReg 1289	
16 CSR 50-10.010	The County Employees' Retirement Fund		34 MoReg 217	34 MoReg 1289	
16 CSR 50-10.030	The County Employees' Retirement Fund		34 MoReg 217	34 MoReg 1289	
16 CSR 50-10.050	The County Employees' Retirement Fund		34 MoReg 1024		
16 CSR 50-20.020	The County Employees' Retirement Fund		34 MoReg 218	34 MoReg 1289	
16 CSR 50-20.120	The County Employees' Retirement Fund		34 MoReg 218	34 MoReg 1289	
	DEPARTMENT OF HEALTH AND SENIOR SERVICES				
19 CSR 20-44.010	Division of Community and Public Health		34 MoReg 288		
19 CSR 30-20.096	Division of Regulation and Licensure		33 MoReg 2343	34 MoReg 1136	
19 CSR 30-26.010	Division of Regulation and Licensure		33 MoReg 2348	34 MoReg 1136	
19 CSR 30-40.342	Division of Regulation and Licensure		34 MoReg 289		
19 CSR 30-40.600	Division of Regulation and Licensure		34 MoReg 296		
19 CSR 40-11.010	Division of Maternal, Child and Family Health	34 MoReg 271	34 MoReg 304		
19 CSR 60-50	Missouri Health Facilities Review Committee				34 MoReg 1290 This Issue
	DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION				
20 CSR	Construction Claims Binding Arbitration Cap				32 MoReg 667 33 MoReg 150 33 MoReg 2446
20 CSR	Medical Malpractice				30 MoReg 481 31 MoReg 616 32 MoReg 545
20 CSR	Sovereign Immunity Limits				30 MoReg 108 30 MoReg 2587 31 MoReg 2019 33 MoReg 150 33 MoReg 2446
20 CSR	State Legal Expense Fund Cap				32 MoReg 668 33 MoReg 150 33 MoReg 2446
20 CSR 200-12.020	Insurance Solvency and Company Regulation		33 MoReg 2237	34 MoReg 1137	
20 CSR 400-1.170	Life, Annuities and Health	34 MoReg 175	34 MoReg 219	34 MoReg 1354	
20 CSR 400-2.200	Life, Annuities and Health		34 MoReg 542		
20 CSR 500-7.030	Property and Casualty	33 MoReg 2085	33 MoReg 2238	34 MoReg 1219	
20 CSR 500-7.080	Property and Casualty	33 MoReg 2085	33 MoReg 2238	34 MoReg 1220	
20 CSR 600-1.030	Statistical Reporting		33 MoReg 1882		
20 CSR 700-3.200	Insurance Licensing	34 MoReg 274	34 MoReg 309	34 MoReg 1355	
20 CSR 2015-1.030	Acupuncturist Advisory Committee	34 MoReg 1173			
20 CSR 2030-2.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		34 MoReg 1182		
20 CSR 2030-5.030	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		34 MoReg 45	34 MoReg 1138	
20 CSR 2030-11.025	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		34 MoReg 1183		

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20 CSR 2030-11.035	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		34 MoReg 1185		
20 CSR 2085-3.010	Board of Cosmetology and Barber Examiners		34 MoReg 1024		
20 CSR 2085-5.010	Board of Cosmetology and Barber Examiners		34 MoReg 1187		
20 CSR 2085-6.010	Board of Cosmetology and Barber Examiners		34 MoReg 1187		
20 CSR 2085-7.010	Board of Cosmetology and Barber Examiners		34 MoReg 1187		
20 CSR 2085-7.050	Board of Cosmetology and Barber Examiners		34 MoReg 1188		
20 CSR 2085-8.030	Board of Cosmetology and Barber Examiners		34 MoReg 1188		
20 CSR 2085-8.040	Board of Cosmetology and Barber Examiners		34 MoReg 1189		
20 CSR 2085-8.060	Board of Cosmetology and Barber Examiners		34 MoReg 1189		
20 CSR 2085-9.010	Board of Cosmetology and Barber Examiners		34 MoReg 1189		
20 CSR 2085-10.010	Board of Cosmetology and Barber Examiners		34 MoReg 1190		
20 CSR 2085-10.020	Board of Cosmetology and Barber Examiners		34 MoReg 1192		
20 CSR 2085-10.060	Board of Cosmetology and Barber Examiners		34 MoReg 1194R 34 MoReg 1194		
20 CSR 2085-11.020	Board of Cosmetology and Barber Examiners		34 MoReg 1195		
20 CSR 2085-12.010	Board of Cosmetology and Barber Examiners		34 MoReg 1195		
20 CSR 2085-12.060	Board of Cosmetology and Barber Examiners		34 MoReg 1195		
20 CSR 2110-2.010	Missouri Dental Board		34 MoReg 126	34 MoReg 1138	
20 CSR 2110-2.030	Missouri Dental Board		34 MoReg 126	34 MoReg 1139	
20 CSR 2110-2.050	Missouri Dental Board		34 MoReg 127	34 MoReg 1139	
20 CSR 2110-2.090	Missouri Dental Board		34 MoReg 127	34 MoReg 1139	
20 CSR 2110-2.130	Missouri Dental Board		34 MoReg 127	34 MoReg 1139	
20 CSR 2110-2.132	Missouri Dental Board		34 MoReg 128	34 MoReg 1139	
20 CSR 2110-2.240	Missouri Dental Board		34 MoReg 128	34 MoReg 1140	
20 CSR 2120-2.070	State Board of Embalmers and Funeral Directors		34 MoReg 1196		
20 CSR 2120-2.071	State Board of Embalmers and Funeral Directors		34 MoReg 1196		
20 CSR 2145-1.010	Missouri Board of Geologist Registration		34 MoReg 219	34 MoReg 1222	
20 CSR 2145-1.040	Missouri Board of Geologist Registration		34 MoReg 1028		
20 CSR 2150-3.010	State Board of Registration for the Healing Arts		34 MoReg 1030		
20 CSR 2150-3.020	State Board of Registration for the Healing Arts		34 MoReg 1035		
20 CSR 2150-3.030	State Board of Registration for the Healing Arts		34 MoReg 1037R 34 MoReg 1037		
20 CSR 2150-3.040	State Board of Registration for the Healing Arts		34 MoReg 1040R 34 MoReg 1040		
20 CSR 2150-3.050	State Board of Registration for the Healing Arts		34 MoReg 1044R 34 MoReg 1044		
20 CSR 2150-3.053	State Board of Registration for the Healing Arts		34 MoReg 1048		
20 CSR 2150-3.055	State Board of Registration for the Healing Arts		34 MoReg 1053		
20 CSR 2150-3.057	State Board of Registration for the Healing Arts		34 MoReg 1058		
20 CSR 2150-3.060	State Board of Registration for the Healing Arts		34 MoReg 1064R 34 MoReg 1064		
20 CSR 2150-3.063	State Board of Registration for the Healing Arts		34 MoReg 1067		
20 CSR 2150-3.066	State Board of Registration for the Healing Arts		34 MoReg 1073		
20 CSR 2150-3.080	State Board of Registration for the Healing Arts		34 MoReg 1077		
20 CSR 2150-3.085	State Board of Registration for the Healing Arts		34 MoReg 1077		
20 CSR 2150-3.090	State Board of Registration for the Healing Arts		34 MoReg 1082		
20 CSR 2150-3.100	State Board of Registration for the Healing Arts		34 MoReg 1082		
20 CSR 2150-3.110	State Board of Registration for the Healing Arts		34 MoReg 1086		
20 CSR 2150-3.120	State Board of Registration for the Healing Arts		34 MoReg 1086		
20 CSR 2150-3.150	State Board of Registration for the Healing Arts		34 MoReg 1087R 34 MoReg 1087		
20 CSR 2150-3.153	State Board of Registration for the Healing Arts		34 MoReg 1092		
20 CSR 2150-3.160	State Board of Registration for the Healing Arts		34 MoReg 1097		
20 CSR 2150-3.163	State Board of Registration for the Healing Arts		34 MoReg 1097		
20 CSR 2150-3.165	State Board of Registration for the Healing Arts		34 MoReg 1102		
20 CSR 2150-3.170	State Board of Registration for the Healing Arts		34 MoReg 1108		
20 CSR 2150-3.180	State Board of Registration for the Healing Arts		34 MoReg 1108		
20 CSR 2150-3.201	State Board of Registration for the Healing Arts		34 MoReg 1112		
20 CSR 2150-5.020	State Board of Registration for the Healing Arts		34 MoReg 128	34 MoReg 1355W	
20 CSR 2150-7.135	State Board of Registration for the Healing Arts		34 MoReg 1197		
20 CSR 2150-7.136	State Board of Registration for the Healing Arts		34 MoReg 1197		
20 CSR 2165-2.010	Board of Examiners for Hearing Instrument Specialists		34 MoReg 220	34 MoReg 1355	
20 CSR 2165-2.030	Board of Examiners for Hearing Instrument Specialists		34 MoReg 224	34 MoReg 1358	
20 CSR 2165-2.040	Board of Examiners for Hearing Instrument Specialists		34 MoReg 225	34 MoReg 1358	
20 CSR 2200-4.010	State Board of Nursing		34 MoReg 1112		
20 CSR 2205-1.050	Missouri Board of Occupational Therapy	34 MoReg 1173			
20 CSR 2235-1.015	State Committee of Psychologists		34 MoReg 1198		
20 CSR 2235-1.045	State Committee of Psychologists		34 MoReg 225	34 MoReg 1222	
20 CSR 2235-2.060	State Committee of Psychologists		34 MoReg 225	34 MoReg 1222	
20 CSR 2235-2.070	State Committee of Psychologists		34 MoReg 1199		
20 CSR 2235-2.080	State Committee of Psychologists		34 MoReg 1199		
20 CSR 2245-3.005	Real Estate Appraisers		34 MoReg 1277R 34 MoReg 1277		
20 CSR 2245-5.020	Real Estate Appraisers		34 MoReg 1117		
20 CSR 2250-4.040	Missouri Real Estate Commission		34 MoReg 1200		
20 CSR 2250-4.050	Missouri Real Estate Commission		34 MoReg 1202		
20 CSR 2250-4.070	Missouri Real Estate Commission		34 MoReg 1204		
20 CSR 2250-4.075	Missouri Real Estate Commission		34 MoReg 1206		
20 CSR 2250-8.030	Missouri Real Estate Commission		34 MoReg 1206		

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20 CSR 2250-8.090	Missouri Real Estate Commission		34 MoReg 1206		
20 CSR 2250-8.095	Missouri Real Estate Commission		34 MoReg 1207		
20 CSR 2250-8.096	Missouri Real Estate Commission		34 MoReg 1208		
20 CSR 2250-8.097	Missouri Real Estate Commission		34 MoReg 1209		
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20 CSR 2250-10.100	Missouri Real Estate Commission		34 MoReg 1213		
20 CSR 2267-2.020	Office of Tattooing, Body Piercing, and Branding	34 MoReg 1174			
20 CSR 2267-2.030	Office of Tattooing, Body Piercing, and Branding		34 MoReg 226	34 MoReg 1222	
20 CSR 2267-2.031	Office of Tattooing, Body Piercing, and Branding		34 MoReg 228	34 MoReg 1223	
20 CSR 2270-1.021	Missouri Veterinary Medical Board	34 MoReg 823	34 MoReg 1121		
20 CSR 2270-3.020	Missouri Veterinary Medical Board		34 MoReg 1214		
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22 CSR 10-2.050	Health Care Plan	34 MoReg 176	34 MoReg 232	34 MoReg 1223	
22 CSR 10-2.053	Health Care Plan	34 MoReg 177	34 MoReg 232	34 MoReg 1223	
22 CSR 10-2.060	Health Care Plan	34 MoReg 178	34 MoReg 233	34 MoReg 1223	
22 CSR 10-2.075	Health Care Plan	34 MoReg 178	34 MoReg 233	34 MoReg 1223	
22 CSR 10-3.030	Health Care Plan	34 MoReg 179	34 MoReg 234	34 MoReg 1223	
22 CSR 10-3.075	Health Care Plan	34 MoReg 179	34 MoReg 235	34 MoReg 1224	

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Department of Transportation				
Highway Safety Division				
7 CSR 60-2.010	Definitions	34 MoReg 1321	July 1, 2009	Dec. 30, 2009
7 CSR 60-2.030	Standards and Specifications	34 MoReg 1322	July 1, 2009	Dec. 30, 2009
7 CSR 60-2.040	Responsibilities of Authorized Service Providers	34 MoReg 1324	July 1, 2009	Dec. 30, 2009
Department of Labor and Industrial Relations				
Labor Standards				
8 CSR 30-6.010	Reduction in Minimum Wage Based on Physical or Mental Disabilities	This Issue	June 11, 2009	Dec. 7, 2009
Department of Natural Resources				
Clean Water Commission				
10 CSR 20-4.040	State Revolving Fund General Assistance Regulation	34 MoReg 1326	May 22, 2009	Feb. 25, 2010
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10 CSR 60-13.020	Drinking Water Revolving Fund Loan Program	This Issue	May 30, 2009	Feb. 25, 2010
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13 CSR 70-15.110	Federal Reimbursement Allowance (FRA)	Next Issue	June 22, 2009	June 30, 2009
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15 CSR 60-15.010	Definitions	34 MoReg 651	March 12, 2009	Sept. 7, 2009
15 CSR 60-15.020	Form of Affidavit	34 MoReg 651	March 12, 2009	Sept. 7, 2009
15 CSR 60-15.030	Complaints	34 MoReg 652	March 12, 2009	Sept. 7, 2009
15 CSR 60-15.040	Investigation of Complaints	34 MoReg 652	March 12, 2009	Sept. 7, 2009
15 CSR 60-15.050	Notification by Federal Government that Individual Is Not Authorized to Work	34 MoReg 653	March 12, 2009	Sept. 7, 2009
Department of Health and Senior Services				
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19 CSR 40-11.010	Payments for Vision Examinations	34 MoReg 271	Jan. 19, 2009	July 17, 2009
Department of Insurance, Financial Institutions and Professional Registration				
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20 CSR 700-3.200	Continuing Education	34 MoReg 274	Jan. 18, 2009	July 16, 2009
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20 CSR 2015-1.030	Fees	34 MoReg 1173	April 19, 2009	Jan. 27, 2010
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20 CSR 2085-3.010	Fees	Next Issue	June 18, 2009	Feb. 25, 2010
Missouri Board of Occupational Therapy				
20 CSR 2205-1.050	Fees	34 MoReg 1173	April 17, 2009	Jan. 27, 2010
Office of Tattooing, Body Piercing, and Branding				
20 CSR 2267-2.020	Fees	34 MoReg 1174	April 17, 2009	Jan. 27, 2010
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20 CSR 2270-1.021	Fees	34 MoReg 823	April 2, 2009	Jan. 12, 2010

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	2009		
09-21	Declares a state of emergency exists in the state of Missouri and directs that Missouri State Emergency Operations Plan remain activated	May 14, 2009	34 MoReg 1332
09-20	Gives the director of the Missouri Department of Natural Resources full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to best serve the interests of the public health and safety during the period of the emergency and the subsequent recovery period	May 12, 2009	34 MoReg 1331
09-19	Declares a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated	May 8, 2009	34 MoReg 1329
09-18	Orders that all state agencies whose building management falls under the direction of the Office of Administration shall institute policies that will result in reductions of energy consumption of two percent per year for each of the next ten years	April 23, 2009	34 MoReg 1273
09-17	Creates the Transform Missouri Project as well as the Taxpayer Accountability, Compliance, and Transparency Unit, and rescinds Executive Order 09-12	March 31, 2009	34 MoReg 828
09-16	Directs the Department of Corrections to lead a permanent, interagency steering team for the Missouri Reentry Process	March 26, 2009	34 MoReg 826
09-15	Expands the Missouri Automotive Jobs Task Force to consist of 18 members	March 24, 2009	34 MoReg 824
09-14	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	March 5, 2009	34 MoReg 761
09-13	Extends Executive Order 09-04 and Executive Order 09-07 through March 31, 2009	February 25, 2009	34 MoReg 657
09-12	Creates and establishes the Transform Missouri Initiative	February 20, 2009	34 MoReg 655
09-11	Orders the Department of Health and Senior Services and the Department of Social Services to transfer the Blindness Education, Screening and Treatment Program (BEST) to the Department of Social Services	February 4, 2009	34 MoReg 590
09-10	Orders the Department of Elementary and Secondary Education and the Department of Economic Development to transfer the Missouri Customized Training Program to the Department of Economic Development	February 4, 2009	34 MoReg 588
09-09	Transfers the various scholarship programs under the Departments of Agriculture, Elementary and Secondary Education, Higher Education, and Natural Resources to the Department of Higher Education	February 4, 2009	34 MoReg 585
09-08	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	February 2, 2009	34 MoReg 366
09-07	Gives the director of the Missouri Department of Natural Resources the authority to temporarily suspend regulations in the aftermath of severe weather that began on January 26	January 30, 2009	34 MoReg 364
09-06	Activates the state militia in response to the aftermath of severe storms that began on January 26	January 28, 2009	34 MoReg 362
09-05	Establishes a Complete Count Committee for the 2010 Census	January 27, 2009	34 MoReg 359
09-04	Declares a state of emergency and activates the Missouri State Emergency Operations Plan	January 26, 2009	34 MoReg 357
09-03	Directs the Missouri Department of Economic Development, working with the Missouri Development Finance Board, to create a pool of funds designated for low-interest and no-interest direct loans for small business	January 13, 2009	34 MoReg 281
09-02	Creates the Economic Stimulus Coordination Council	January 13, 2009	34 MoReg 279
09-01	Creates the Missouri Automotive Jobs Task Force	January 13, 2009	34 MoReg 277
	2008		
08-41	Extends Executive Order 07-31 until January 12, 2009	January 9, 2009	34 MoReg 275
08-40	Extends Executive Order 07-01 until January 1, 2010	December 17, 2008	34 MoReg 181
08-39	Closes state offices in Cole County on Monday, January 12, 2009	December 3, 2008	34 MoReg 11
08-38	Amends Executive Order 03-17 to revise the composition of the committee to include the Divisional Commander of the Midland Division of the Salvation Army or his or her designee	November 25, 2008	34 MoReg 10

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08-37	Orders the Department of Natural Resources to develop a voluntary certification program to identify environmentally responsible practices in Missouri's lodging industries	November 13, 2008	33 MoReg 2424
08-36	Orders the departments and agencies of the Executive Branch of Missouri state government to adopt a Pandemic Flu Share Leave Program	October 23, 2008	33 MoReg 2313
08-35	Creates the Division of Developmental Disabilities and abolishes the Division of Mental Retardation and Developmental Disabilities within the Department of Mental Health	October 16, 2008	33 MoReg 2311
08-34	Establishes the Complete Count Committee to ensure an accurate count of Missouri citizens during the 2010 Census	October 21, 2008	33 MoReg 2309
08-33	Advises that state offices will be closed on Friday, December 26, 2008	October 29, 2008	33 MoReg 2308
08-32	Advises that state offices will be closed on Friday, November 28, 2008	October 2, 2008	33 MoReg 2088
08-31	Declares that a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated	September 15, 2008	33 MoReg 1863
08-30	Directs the Adjutant General call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and to support civilian authorities	September 15, 2008	33 MoReg 1861
08-29	Transfers the Breath Alcohol Program back to the Department of Health and Senior Services from the Department of Transportation by Type I transfer	September 12, 2008	33 MoReg 1859
08-28	Orders and directs the Adjutant General of the state of Missouri, or his designee, to call and order forthwith into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri to protect life and property	August 30, 2008	33 MoReg 1801
08-27	Declares that Missouri will implement the Emergency Management Assistance Compact with Louisiana in evacuating disaster victims associated with Hurricane Gustav from that state to the state of Missouri	August 30, 2008	33 MoReg 1799
08-26	Extends the order contained in Executive Orders 08-21, 08-23, and 08-25	August 29, 2008	33 MoReg 1797
08-25	Extends the order contained in Executive Orders 08-21 and 08-23	July 28, 2008	33 MoReg 1658
08-24	Extends the declaration of emergency contained in Executive Order 08-20 and the terms of Executive Order 08-19	July 11, 2008	33 MoReg 1546
08-23	Extends the declaration of emergency contained in Executive Order 08-21	July 11, 2008	33 MoReg 1545
08-22	Designates members of staff with supervisory authority over selected state agencies	July 3, 2008	33 MoReg 1543
08-21	Authorizes the Department of Natural Resources to temporarily waive or suspend rules during the period of the emergency	June 20, 2008	33 MoReg 1389
08-20	Declares a state of emergency exists and directs the Missouri State Emergency Operations Plan be activated	June 11, 2008	33 MoReg 1331
08-19	Orders and directs the Adjutant General of the state of Missouri, or his designee, to call and order forthwith into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri to protect life and property	June 11, 2008	33 MoReg 1329
08-18	Authorizes the Department of Natural Resources to temporarily waive or suspend rules during the period of the emergency	May 13, 2008	33 MoReg 1131
08-17	Extends the declaration of emergency contained in Executive Order 08-14 and the terms of Executive Order 08-15	April 29, 2008	33 MoReg 1071
08-15	Calls organized militia into active service	April 1, 2008	33 MoReg 905
08-14	Declares a state of emergency exists and directs the Missouri State Emergency Operations Plan be activated	April 1, 2008	33 MoReg 903
08-13	Expands the number of state employees allowed to participate in the Missouri Mentor Initiative	March 27, 2008	33 MoReg 901
08-12	Authorizes the Department of Natural Resources to temporarily waive or suspend rules during the period of the emergency	March 21, 2008	33 MoReg 899
08-11	Calls organized militia into active service	March 18, 2008	33 MoReg 897
08-10	Declares a state of emergency exists and directs the Missouri State Emergency Operations Plan be activated	March 18, 2008	33 MoReg 895
08-09	Establishes the Missouri Civil War Sesquicentennial Commission	March 6, 2008	33 MoReg 783
08-08	Gives Department of Natural Resources authority to suspend regulations in the aftermath of severe weather that began on February 10, 2008	February 20, 2008	33 MoReg 715

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08-07	Declares that a state of emergency exists in the state of Missouri.	February 12, 2008	33 MoReg 625
08-06	Orders and directs the Adjutant General of the state of Missouri, or his designee, to call and order forthwith into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri to protect life and property	February 12, 2008	33 MoReg 623
08-05	Extends Executive Orders, 07-34, 07-36 and 07-39 through March 15, 2008 for the purpose of continuing the cleanup efforts in affected communities	February 11, 2008	33 MoReg 621
08-04	Transfers authority of the sexual assault evidentiary kit and exam payment program from the Department of Health and Senior Services to Department of Public Safety by Type 1 transfer	February 6, 2008	33 MoReg 619
08-03	Activates the state militia in response to the aftermath of severe storms that began on January 7, 2008	January 11, 2008	33 MoReg 405
08-02	Activates the Missouri State Emergency Operations Plan in the aftermath of severe weather that began on January 7, 2008	January 11, 2008	33 MoReg 403
08-01	Establishes the post of Missouri Poet Laureate	January 8, 2008	33 MoReg 401

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Use the built-in calendar to select your filing date, or type in your filing date using the mm/dd/yy format.

For proposed rulemaking, if you are having a hearing or an extended comment period, you may check the override thirty-day comment box and insert the date for the final day to submit comments or the date of the hearing, whichever is later.

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