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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

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SECRETARY OF STATE

JOHN R. ASHCROFT

Administrative Rules Division
James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

EDITOR-IN-CHIEF

CURTIS W. TREAT

•

MANAGING EDITOR

AMANDA MCKAY

•

EDITOR

VONNE KILBOURN

•

ASSOCIATE EDITOR

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•

PUBLICATION SPECIALIST

JACQUELINE D. WHITE

•

ADMINISTRATIVE AIDE

ALISHA DUDENHOEFFER

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Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
February 1, 2018	March 1, 2018	March 31, 2018	April 30, 2018
February 15, 2018	March 15, 2018	March 31, 2018	April 30, 2018
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September 17, 2018	October 15, 2018	October 31, 2018	November 30, 2018
October 1, 2018	November 1, 2018	November 30, 2018	December 30, 2018
October 15, 2018	November 15, 2018	November 30, 2018	December 30, 2018

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 www.sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

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

Title		Division	Chapter	Rule
3	CSR	10-	4	.115
Department	<i>Code of State Regulations</i>	Agency Division	General area regulated	Specific area regulated

and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in 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 paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation, for example, 3 CSR 10-4.115 NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and Register on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is www.sos.mo.gov/adrules/csr/csr

The *Register* address is www.sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

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.

hundred twenty-five dollars (\$125). Optometrists' renewal notices will be mailed on August 1, 2018. Without this emergency amendment, the decreased fee requirements will not be effective prior to mailing and the board will collect more revenue than it is statutorily authorized to collect. The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the board has determined that the fee decrease is necessary for the 2018 renewal period to prevent funds from exceeding the maximum fund balance, thereby resulting in a transfer from the fund to general revenue as set forth in section 336.140.2, RSMo. Pursuant to section 324.001.10, RSMo, a compelling governmental interest is deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the Division of Professional Registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue. The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed May 11, 2018, becomes effective May 21, 2018, and expires February 28, 2019.

(1) The following fees are established by the State Board of Optometry:

(C) Biennial Renewal Fee	\$150
1. Effective August 1, 2018 through December 31, 2018	\$125

AUTHORITY: sections 336.140 and 336.160, RSMo [Supp. 2007] 2016. This rule originally filed as 4 CSR 210-2.070. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 11, 2018, effective May 21, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2210—State Board of Optometry
Chapter 2—General Rules**

EMERGENCY AMENDMENT

20 CSR 2210-2.070 Fees. The State Board of Optometry is proposing to add paragraph (1)(C)1.

PURPOSE: The State Board of Optometry is statutorily obligated to enforce and administer the provisions of Chapter 336, RSMo, governing the practice of optometry. Pursuant to section 336.160, RSMo, the board shall set the appropriate amount of fees by rule so that the revenue produced shall not substantially exceed the cost and expense of administering the provisions of Chapter 336, RSMo. Based on the board's five- (5-) year projections, the board finds it necessary to reduce renewal fees for Missouri licensed optometrists.

EMERGENCY STATEMENT: The State Board of Optometry is statutorily obligated to set all fees, by regulation, necessary to administer the provisions of Chapter 336, RSMo. Pursuant to section 336.160, RSMo, the board shall set the appropriate amount of fees by rule, so that the revenue produced shall not substantially exceed the cost and expense of administering the provisions of Chapter 336, RSMo. Therefore, the board is proposing to decrease 2018 renewal fees for Missouri optometrists from one hundred fifty dollars (\$150) to one

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 symbolology under the heading of 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 2—DEPARTMENT OF AGRICULTURE
Division 10—*[Market]* Ag Business Development
Chapter 1—Organization and Description**

PROPOSED AMENDMENT

2 CSR 10-1.010 General Organization. The department is deleting sections (1) and (2) and adding new sections (1) and (2).

PURPOSE: The rule amendment reflects the move of the education loans and Young Farmers Capitol Improvement loans to MASBDA, and updating language based on strategic planning results.

PURPOSE: The purpose of this rule is to comply with section 536.023, RSMo 1986 which requires each agency to adopt as a rule a description of its operation and the methods in which the public may obtain information or make submissions or requests.

[(1) The Division of Market Development is a unit of the

Department of Agriculture, state of Missouri.

(A) The primary responsibilities of this division are to provide marketing services to producers, distributors and consumers of agricultural commodities and to administer the funds of the Rural Rehabilitation Corporation.

(B) In order to provide these services, the activities consist of commodity market news, domestic and export market promotion and development, educational loans, 4-H and FFA crop and livestock program, young farmers capital improvement loans in cooperation with FMHA and Building Our American Communities program.

(2) This division is located at 1616 Missouri Blvd., Jefferson City, MO 65101, (314) 751-2613.]

(1) The Ag Business Development Division is a unit of the Department of Agriculture, state of Missouri.

(A) The primary responsibilities of this division are to provide leadership for the promotion and advancement of Missouri's agricultural economy in support of producers, consumers, and agri-business innovation, technology adoption, and economic development.

(B) To accomplish this the division pursues advocacy for producers and consumers through domestic and international market development and business development activities.

(2) This division is located at 1616 Missouri Blvd., Jefferson City, MO 65101, (573) 751-2613.

AUTHORITY: section 536.023, RSMo [1986] 2016. Original rule filed April 9, 1976, effective July 15, 1976. Amended: Filed May 11, 2018.

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 Department of Agriculture, Ag Business Development Division, PO Box 630, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 1—Organization and Description**

PROPOSED RESCISSION

2 CSR 50-1.010 General Organization. The rule provided a description of the operation and methods where the public could obtain information or make submissions or requests.

PURPOSE: The rule is being rescinded as the description of the Missouri State Fair's duties and contact information are outdated.

AUTHORITY: sections 262.450, 262.460, 262.470 and 262.480, RSMo 1986. Original rule filed April 9, 1976, effective July 15, 1976. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 2—Registration Statement**

PROPOSED RESCISSION

2 CSR 50-2.010 Registration Statement. This rule provided a complete listing of all fairs and dates.

PURPOSE: The rule is being rescinded as the State Aid to Fairs program (created in Section 262.450, RSMo.) has not been funded by the legislature and is no longer an active program.

AUTHORITY: section 262.470, RSMo 1986. Original rule filed July 5, 1968, effective July 15, 1968. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 3—Concessions at State Fair**

PROPOSED RESCISSION

2 CSR 50-3.020 Concession Contracts. This rule listed contractual rights and obligations of the Missouri State Fair with those using rental space.

PURPOSE: The rule is being rescinded as the rule is outdated and obsolete. The current concessionaire and exhibitor needs are met through contracts and other Missouri State Fair policies enacted by the Missouri State Fair Commission.

AUTHORITY: Chapter 262 and section 262.270, RSMo Supp. 1987. This rule was previously filed as 2 CSR 50-4.020. Emergency rule filed March 27, 1980, effective April 8, 1980, expired Aug. 6, 1980.

Original rule filed April 2, 1992, effective Jan. 15, 1993. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 4—Solicitation on Missouri State Fair Property**

PROPOSED RESCISSION

2 CSR 50-4.010 Rental Space Required to Advocate or Solicit Support for Ideas, Causes, Products, or Any of These, While on State Fair Property. This rule placed restrictions on any individual, group or organization who advocates or solicits support for ideas, causes, products, or any of these, while on state fair property.

PURPOSE: The rule is being rescinded as the rule is outdated and obsolete. The current rules regarding rental space and prohibited actions on the MSF fairgrounds are met through contracts and other policies enacted by the Missouri State Fair Commission.

AUTHORITY: Chapter 262 and section 262.270, RSMo Supp. 1987. Emergency rule filed Aug. 2, 1990, effective Aug. 12, 1990, expired Dec. 9, 1990. Emergency rule filed Aug. 5, 1991, effective Aug. 15, 1991, expired Dec. 12, 1991. Original rule filed April 2, 1992, effective Jan. 15, 1993. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 5—Admissions**

PROPOSED RESCISSION

2 CSR 50-5.010 Admissions Policy. This rule listed the guidelines for admission to the Missouri State Fair.

PURPOSE: This rule is being rescinded as the rule is outdated and obsolete. Current admission and camping requirements are outlined by fair policies and the public may obtain information by contacting the Fair or online.

AUTHORITY: Chapter 262 and section 262.270, RSMo Supp. 1987. Original rule filed April 2, 1992, effective Jan. 15, 1993. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 6—Contracts for Goods and Services Needed by
the Missouri State Fair

PROPOSED RESCISSION

2 CSR 50-6.010 Hiring Procedures for Personnel During the State Fair. This rule provided for procedures for hiring personnel from the private sector for the two-week period of the Missouri State Fair and the way those services are outlined.

PURPOSE: The rule is being rescinded as the rule is outdated and obsolete. Current fair policies and contracts adopted by the commission dictate personnel details.

AUTHORITY: Chapter 262 and section 262.270, RSMo Supp. 1987. Original rule filed April 2, 1992, effective Jan. 15, 1993. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 6—Contracts for Goods and Services Needed by
the Missouri State Fair

PROPOSED RESCISSION

2 CSR 50-6.020 Contracts for Professional Services. This rule provided procedures where the director of the Missouri State Fair

contracts for professional services needed for the conduct of the fair.

PURPOSE: The rule is being rescinded as the rule is outdated and obsolete. Current fair policies and contracts adopted by the commission dictate professional service details.

AUTHORITY: Chapter 262 and section 262.270, RSMo Supp. 1987. Original rule filed April 2, 1992, effective Jan. 15, 1993. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 6—Contracts for Goods and Services Needed by
the Missouri State Fair

PROPOSED RESCISSION

2 CSR 50-6.030 Solicitation of Sponsors for the State Fair. The rule described the authority that the director of the Missouri State Fair has to solicit and negotiate sponsorships for the good of the fair.

PURPOSE: The rule is being rescinded as the rule is outdated and obsolete. Current fair policies and contracts adopted by the commission dictate sponsorship details.

AUTHORITY: Chapter 262 and section 262.270, RSMo Supp. 1987. Original rule filed April 2, 1992, effective Jan. 15, 1993. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 6—Contracts for Goods and Services Needed by
the Missouri State Fair

PROPOSED RESCISSION

2 CSR 50-6.040 Contracts to Provide Entertainment at the State Fair. This rule provided for the director of the Missouri State Fair

to arrange for various forms of entertainment and informational exhibits for the fair.

PURPOSE: The rule is being rescinded as the rule is outdated and obsolete. Current fair policies and contracts adopted by the commission dictate entertainment details.

AUTHORITY: Chapter 262 and section 262.270, RSMo Supp. 1987. Original rule filed April 2, 1992, effective Jan. 15, 1993. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 2—DEPARTMENT OF AGRICULTURE
Division 50—Fairs
Chapter 7—Off-Season Use of State Fair Facilities**

PROPOSED RESCISSION

2 CSR 50-7.010 Policy and Procedure for Use of Any Facility at the State Fair During the Off-Season. This rule provided the guidelines for off-season use of Missouri State Fair facilities.

PURPOSE: This rule is being rescinded as the rule is outdated and obsolete. Current fair policies and contracts adopted by the commission dictate use of the State Fairgrounds during the off season.

AUTHORITY: Chapter 262 and section 262.270, RSMo Supp. 1987. Original rule filed April 2, 1992, effective Jan. 15, 1993. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Agriculture, ATTN: Mark Wolfe, Missouri State Fair Director, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. 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 7—MISSOURI DEPARTMENT OF
TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 11—Procurement of Supplies**

PROPOSED AMENDMENT

7 CSR 10-11.010 Definition of Terms. The Missouri Highways and

Transportation Commission is amending sections (3), (8), (9), (10), (12), (16), (18), (21), (22), (27), (29), (31); deleting sections (24) and (26); adding new sections (16), (18), and (26); and renumbering as necessary.

PURPOSE: This proposed amendment removes unnecessary restrictive wording, clarifies definitions to make them easier to understand, and adds definitions for indefinite delivery contracts, invitation for quotation, and request for information.

(3) Bidder/Offeror—A person or entity submitting a solicitation document to the department.

(8) Contract—An offer to perform [a contract for] work and labor or to supply materials, goods, or services at a specified price that is acceptable to the commission; also may include detailed information about services to be furnished.

(9) Contractor—A successful bidder/offeror [to whom] who has received an award by the commission and with which a contract has been [awarded by] executed with the commission.

(10) Debarment—An exclusion from contracting with the commission [for] that is issued by the commission and has an indefinite period of time in duration.

(12) Director—The director of the General Services Division of the department or a designated representative (i.e., designee) of the director.

(16) Indefinite Delivery Contract (IDC)—Resulting from a competitive procurement, contracts awarded for facility maintenance, construction, repair, rehabilitation, renovation, or alteration services of a recurring nature when the delivery times and quantities are indefinite. Work orders are placed with the contractors based on pre-described and pre-priced tasks when the need for the services arises.

[(16)](17) Invitation for bid (IFB)—A formal request for sealed bids which [are] is solicited based upon specifications for which bids must be submitted.

(18) Invitation for quotation (IFQ)—An informal request for either bids or proposals based upon either a specification or a scope of work requirement. Establishes a target date and time by which quotations must be submitted.

[(17)](19) Missouri firm—A corporation which is incorporated in Missouri, or in the case of a partnership, joint venture, or sole proprietorship, a business which has its principal place of business in Missouri.

[(18)](20) Multiple award—A purchase order or contract awarded to/executed with two (2) or more bidders/offerors required to meet the needs of the department.

[(19)](21) Nonresponsive bid/proposal—A bid or proposal which does not fulfill all terms, conditions, and specifications outlined in the solicitation document.

[(20)](22) Notice to proceed—A document sent by the department that gives notice to the bidder/offeror to begin performance on its contract.

[(21)](23) Purchase—The term purchase [includes] includes rental or leasing of any equipment, articles, or supplies.

[(22)](24) Purchase order—A document issued by the department [.]

authorizing a bidder/offeror to deliver goods.

[(23)](25) Responsible bid/proposal—Bid/proposal which complies with all terms, conditions, and specifications outlined in the solicitation document.

[(24)] Request for bid (RFB)—A formal request for sealed bids which is solicited and based upon specifications for which bids must be submitted. Bids must be submitted by a specific date and time.]

(26) Request for information (RFI)—An Informal request for information which is solicited and based upon identified needs.

[(25)](27) Request for proposal (RFP)—A formal request for sealed proposals which is solicited and based on scope of work requirements. Proposals must be submitted by a specific date and time.

[(26)] Request for quotation (RFQ)—An informal request for either bids or proposals based upon either a specification or a scope of work requirement. Establishes a target date and time by which quotations must be submitted.]

[(27)](28) Solicitation—A process of notifying prospective bidders/offerors that the department wishes to receive bids or proposals to provide goods, services, or a combination of goods and services to the commission. The term includes */R/IFQ, RFQ, RFP, IFB, RFB,* and any other procurement method which may be used by the commission.

[(28)](29) State—The state of Missouri.

[(29)](30) Substitution—A shipment of an item that materially conforms to the specifications of the solicitation but is technically different from *[the] such* item *[bid]* in the solicitation.

[(30)](31) Supplies—Materials, equipment, contractual services, and all articles or things.

[(31)](32) Suspension—An exclusion from contracting with the commission *[for] that is issued by the commission and has* a temporary period of time.

[(32)](33) Vendor—Any individual, partnership, company, corporation, or joint venturer providing supplies to the commission.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.210, RSMo [2000] 2016. Original rule filed April 5, 1993, effective Oct. 10, 1993. Amended: Filed June 5, 2009, effective Jan. 30, 2010. Amended: Filed May 4, 2018.

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 Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, Missouri 65102 or Pamela.Harlan@modot.mo.gov. 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 7—MISSOURI DEPARTMENT OF TRANSPORTATION

Division 10—Missouri Highways and Transportation Commission

Chapter 11—Procurement of Supplies

PROPOSED AMENDMENT

7 CSR 10-11.020 Procedures for Solicitation, Receipt of Bids, and Award and Administration of Contracts. The Missouri Highways and Transportation Commission is amending sections (1) through (11), (13), (15) through (18), subsections (2)(A) through (2)(D), (3)(A) through (3)(C), (5)(B), (5)(C), and (7)(C) through (7)(M); adding a new section (4); and renumbering as necessary.

PURPOSE: This proposed amendment removes unnecessary restrictive wording, updates revised definitions from 7 CSR 10-11.010 for invitation for quotation and request for information, and adds authority to procure indefinite delivery services.

(1) **Informal Procurement Methods.** When the procurement is estimated to be less than twenty-five thousand dollars (\$25,000), an informal method of solicitation may be utilized. Informal methods of procurement may include *[request] invitation* for quotation (*/R/IFQ*), telephone quotes, etc.

(2) **Request for Bid/Invitation for Bid. A formal method of solicitation will be used** *[W]*when the procurement is estimated to be twenty-five thousand dollars (\$25,000) or more, *a formal method of solicitation must be utilized. Formal competitive bidding shall be accomplished by utilizing. The formal method of solicitation will be either* an invitation for bid (IFB) or request for bid (RFB), etc.

(A) **In a** *[F]*formal *[bids must be received in] solicitation, sealed responses will be submitted to* the division, or a secured electronic database *[in a sealed format]*, by the time set for the opening of bids.

(B) Formal bids received after the time set for the opening of bids *[shall be considered late and]* will not be opened.

(C) **After the bid opening, all** *[B]*bids received in response to an IFB/*[RFB shall be]* **are** available for public review *[after the bid opening during regular working hours]*.

(D) When the division decides in its discretion that all bids are unacceptable and circumstances do not permit a rebid, negotiations may be conducted by the division with only those bidders who submitted bids in response to the IFB/*[RFB]*. *[No additional bidders shall be solicited.]* Upon determination that negotiations will be conducted, the bids and related documents will be closed to public viewing in accordance with section 610.021, RSMo.

(3) **Request for Proposals. Formal request for proposal (RFP) solicitation methods will be used** *[W]*when the procurement requires the utilization of competitive negotiation, *the formal request for proposal (RFP) solicitation method shall be utilized]*.

(A) *[Formal proposals must be received i]***In response to an RFP, sealed responses will be submitted to** the division, or a secured electronic database *[in a sealed format]*, by the time set for the opening of the proposals.

(B) Formal proposals received after the time set for the opening of bids/proposals *[shall be considered late and]* will not be opened.

(C) Proposals received in response to an RFP *[shall not be]* **are** available for public review *[until]* after a contract is executed or all proposals are rejected.

(D) Offerors who obtain information concerning a competitor's proposal may be disqualified for consideration for a contract award.

(4) Indefinite Delivery Contracts. IDC contracts may be utilized for facility maintenance, construction, repair, rehabilitation, renovation, or alteration services of a recurring nature when the delivery times and quantities are indefinite with a total cost of less than twenty-five thousand dollars (\$25,000).

(5) Single Feasible Source. The division may waive the requirement of competitive bids or proposals for supplies when the division has determined in writing that there is only a single feasible source for the supplies. Immediately upon discovering that other feasible sources exist, the division shall rescind the waiver and proceed to procure the supplies through the competitive processes as described in this rule.

(A) A single feasible source exists when:—

1. Supplies are proprietary and only available from the manufacturer or a single distributor; or

2. Based on past procurement experience, it is determined that only one (1) distributor services the region in which the supplies are needed; or

3. Supplies are available at a discount from a single distributor for a limited period of time.

(B) When the Single Feasible Source procurement method is utilized, *[the division shall use]* the following guidelines *[to support the Single Feasible Source determination]* will be used:

1. The following guidelines may be utilized to determine if supplies can be purchased as a single feasible source due to being proprietary:

A. The parts are required to maintain validity of a warranty;

B. Additions to a system must be compatible with original equipment;

C. Only one (1) type of computer software exists for a specific application;

D. Factory authorized maintenance must be utilized to maintain validity of a warranty;

E. The materials are copyrighted and are only available from the publisher or a single distributor; or

F. The services of a particular provider are unique, e.g., entertainers, authors, etc.;

2. The following guidelines may be utilized if past procurement activity indicates *[that]* only one (1) bid has been submitted in a particular region. In these situations, the division shall monitor the market for developing competition; and

3. The following guidelines may be utilized to determine if supplies may be purchased as a single feasible source due to being available at a discount for a limited period of time:

A. The discounted price *[must be]* compared to a price established through a reasonable market analysis; and

B. The discounted price should normally be at least ten percent (10%) less than the current contract or other comparable price. A discount of less than ten percent (10%) may be acceptable under appropriate market conditions. The discount should be compared to a price which, where feasible, *[should be no more than]* is within the most recent twelve (12) months *[old]*.

(C) *[On]* The division shall post any proposed single feasible source purchase *[where the]* with an estimated expenditure *[shall be]* of five thousand dollars (\$5,000) or *[over, the division shall post notice of the proposed purchase]* more. *[Where the estimated expenditure is twenty-five thousand dollars (\$25,000) or over, the division shall also advertise its intent to make such purchase in such places as are most likely to reach prospective bidders or offerors and may provide such information through an electronic medium available to the general public at least five (5) days before the contract is to be let.]* If the estimated expenditure is twenty-five thousand dollars (\$25,000) or more, the intent to make such purchase will be advertised in such places as are most likely to reach prospective bidders or offerors and may provide such information through an electronic medium available to the general public at least five (5)

days before the contract is to be awarded. Other methods of advertisement, however, may be *[adopted]* used by the division when such other methods are deemed more advantageous for the supplies to be purchased. *[The requirement for a]* Advertising may be waived, if not feasible, due to the supplies being available at a discount for only a limited period of time.

(6) Emergency Procurement. When conditions meet the criteria of an emergency situation as defined in 7 CSR 10-11.010, emergency procurement procedures may be utilized. *[The requirement for f]* Formal competitive bids or proposals may be waived. *However,* *[the]* but an emergency procurement should be made with as much informal bidding as practicable. *[Emergency procedures shall only be utilized to purchase]* Only those supplies which are necessary to alleviate the emergency may be purchased using emergency procedures.

(7) Cooperative Procurement. When circumstances dictate that it would be most advantageous, the division may purchase supplies from or in cooperation with another governmental entity.

(A) Supplies purchased from another governmental entity should be limited to those supplies which are provided directly by such entity.

(B) Supplies purchased in cooperation with another governmental entity may be purchased based on contracts established in accordance with that entity's laws and regulations.

(8) Applicable Procedures. Regardless of the solicitation method utilized, the following procedures apply:

(A) *[The division shall develop]* All solicitation documents will use standardized terms and conditions *[to be included with the solicitation documents]*;

(B) The division may request bids/proposals for new equipment employing the trade-in of used equipment. The solicitation document may request pricing with a trade-in and without a trade-in;

(C) The division may require bid/proposal, payment, and/or performance bonds. The solicitation document shall identify the acceptable form and amount of any required bid/proposal, payment, and/or performance bond. In addition—

[1. The acceptable form and amount of the bid/proposal bond shall be stipulated in the solicitation document.]

[2.]1. The bid/proposal bond of unsuccessful vendors may be returned after the finalization of the award to the successful vendor. If the successful vendor fails to *[accept]* execute the contract with the commission, the amount of the bid/proposal bond of the successful vendor may be forfeited to the commission.

[3.]2. *[If a payment and/or performance bond is required, t]*The bid/proposal bond of the successful vendor may be returned after the receipt of the successful vendor's payment and/or performance bond. *[The acceptable form and amount of the payment and/or performance bond shall be stipulated in the solicitation document.]* If the contractor fails to submit the payment and/or performance bond as required, the bid/proposal bond may be forfeited to the commission and the contract *[shall be]* voided;

(D) In the event *[that]* the division receives a container which is not identifiable as responsive to a specific bid/proposal, an authorized person within the division may open the container to determine the contents. If the contents are determined to be responsive to a division bid/proposal, the container will be resealed and the solicitation number, opening date, and time will be noted on the outside. *The container will then be filed until the official time for opening]* and included with all bids at the official time for opening the responses;

(E) After the bid/proposal opening, a vendor may be permitted to withdraw a bid/proposal prior to award at the sole discretion of the division if there is a verifiable error in the bid/proposal and enforcement of the bid would impose an unconscionable hardship on the

vendor. This withdrawal will be considered only after receipt of a written request and supporting documentation from the vendor. *[Withdrawal shall be t/The vendor's sole remedy for an error other than an obvious clerical error is bid withdrawal. Withdrawal of a bid/proposal may result in forfeiture of the bid/proposal bond;*

(F) For bids/proposals with a value of twenty-five thousand dollars (\$25,000) or more, **a ten percent (10%) preference is given to bidders/offerors who can certify that goods or commodities to be provided in accordance with the contract are manufactured or produced in the United States or imported in accordance with a qualifying treaty, law, agreement, or regulation [shall be entitled to a ten percent (10%) preference]** over bidders whose products do not qualify. Failure to provide a certification may result in forfeiture of any preference. *[The provisions in this subsection (7)(F) shall* **This preference does not apply to bids/proposals for goods or commodities [funded by] purchased with federal funds;**

(G) In addition to cost, subjective judgment may be utilized in the evaluation of bids/proposals provided *[that]* the method is published in the solicitation document;

(H) The division may request samples **to be provided free of charge** for evaluation purposes. *[Any samples requested must be provided free of charge.]* Samples *[which are]* not destroyed by testing will be returned at the vendor's expense if return of the samples is stipulated in the vendor's bid/proposal. Samples submitted by a vendor who receives the award may be kept for the duration of the contract for comparison with shipments received;

(I) During the course of a solicitation, vendors may be required to demonstrate proposed products/. *Such demonstration shall be coordinated by]* or services **under coordination** of the division;

(J) **Applicable preference statutes will be applied [W/when bids are equal in all respects/, any preferences shall be applied in accordance with applicable statute].** If *[all such bidders or none qualify for the statutory preference, the contract shall be awarded by]* **bids are equal in all respects after all applicable statutory preferences are applied**, a formal drawing of lot **will be used to award the contract**. Whenever practical, the drawing will be held in the presence of the vendors who are considered equal. If this is not practical, the drawing will be witnessed by a disinterested person;

(K) The division may make multiple awards from a single solicitation document when such awards are in the best interest of the commission as determined in the sole discretion of the division;

(L) *[After an award is made, t/The solicitation file or facsimile thereof shall be made available to the public for inspection at any time [during regular working hours] after an award is made;* and

(M) *[Unless otherwise specified in the contract,]* **The approval of the division is required prior to shipment or performance when substitution of items, personnel, or services [shall require the approval of the division prior to shipment or performance] is proposed, unless otherwise specified in the contract.**

[(8)](9) Minority and Women Business Enterprises. The division will encourage participation in the procurement process and fairness in consideration of bids/proposals submitted by Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs). Programs/procedures designed to accomplish these objectives may include: inclusion of MBE/WBE subcontractor requirements in solicitation documents, close review of bond requirements, targeted notice of procurement opportunities, utilization of minority and women personnel on evaluation committees, etc.

[(9)](10) Bid Protest. A bid or proposal award protest must be *[submitted]* in writing and *[must be]* received by the division within ten (10) calendar days after the date of award. If the tenth day falls on a Saturday, Sunday, or state holiday, the period shall extend to the next state business day. A protest submitted after **expiration of the ten-(10)-[]** calendar-day period shall not be considered. The written

protest should include the following information:

- (A) Name, address, and phone number of the protester;
- (B) Signature of the protester or the protester's representative;
- (C) Solicitation number;
- (D) Detailed statement describing the grounds for the protest; and
- (E) Supporting exhibits, evidence, or documents to substantiate claim.

[(10)](11) Award. *[The award of a]* **A contract or purchase order [shall be] is awarded** based on the terms and conditions *[set forth]* in the solicitation document. The director's discretion may be utilized in the evaluation of bids/proposals provided *[that]* the evaluation categories and the relative percentage of impact are published in the solicitation document.

(A) Any bid/proposal failing to agree to, and comply with, all terms, conditions, and specifications stated in the solicitation document *[shall be]* is considered *[as]* nonresponsive to the solicitation and shall not be considered for the award of a contract or purchase order.

(B) The commission may reject all bids/proposals and may waive any minor informality or irregularity in a bid/proposal. The commission also may make multiple awards from a single solicitation document when permitted by the solicitation document.

[(11)](12) Corrections to Bid/Proposal Documents. When preparing a bid/proposal, a bidder/offeror may correct an error by marking it out or erasing it. The change should be initialed by the person signing the bid/proposal. *[No bid/proposal shall be altered or amended]* **Alterations or amendments to bid/proposals cannot be made** after the time and date specified for the opening of bids/proposals. In the case of errors in the extension of price, the unit price will govern.

[(12)](13) Cancellation of Solicitation. The division may cancel a solicitation document at any time without cause.

[(13)](14) New Supplies. All supplies and equipment offered and furnished must be new and of current production unless the solicitation document specifically permits the offer of used items. *[Remanufactured or reconstructed items shall not be considered new.]*

[(14)](15) Rejection of Supplies. Products, equipment, or items delivered that do not meet the specifications of the contract may be rejected. When rejected, the vendor must make immediate replacement in accordance with the specifications of the contract.

[(15)](16) Inspection. All materials, equipment, and supplies *[shall]* **may be [subject to] inspect/ion/ed and test/s/ed** by the department. Items that do not meet the specifications of a contract may be rejected. **The contractor is not relieved of any liability under the contract if the division fail/ure/s to reject** upon receipt or after part or all of the items have been consumed *[shall not relieve the contractor of any liability under the contract].*

[(16)](17) Services. Services which have not been performed in accordance with specifications or the scope of work of a contract may be rejected. **The vendor is not relieved of any liability under the contract if the division fail/ure/s to reject** upon receipt or after part or all of those services have been performed *[shall not relieve the vendor of any liability under the contract].*

[(17)](18) Assignment. *[Permission from the commission to a]* **A contractor must request permission from the commission, in writing,** to assign a contract or order *[must be requested by the contractor in writing].* *[A contractor shall not assign its interest in a contract or order to another party without receiving written permission from the division acting on behalf of the*

commission.] The division, acting on behalf of the commission, will provide written permission, if the division agrees to the request.

[(18)](19) Arbitration. The commission, unless specifically agreed upon by the parties in writing, shall not be bound by a compulsory arbitration or other compulsory dispute resolution provision which is present in any of vendor's forms or boilerplate.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.210, RSMo [2000] 2016. Original rule filed April 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed June 5, 2009, effective Jan. 30, 2010. Amended: Filed May 4, 2018.

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 Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, Missouri 65102 or Pamela.Harlan@modot.mo.gov. 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 7—MISSOURI DEPARTMENT OF
TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 11—Procurement of Supplies**

PROPOSED AMENDMENT

7 CSR 10-11.030 Vendor [Registration, Notification of Competitive Bidding Opportunities,] Suspension[,] and Debarment. The Missouri Highways and Transportation Commission is amending the title, purpose statement, sections (3), (4), (5); subsections (3)(A) through (3)(C), (4)(A), (4)(B); deleting sections (1) and (2); and renumbering as necessary.

PURPOSE: This proposed amendment removes procedures no longer applicable for vendor registration and vendor notification of bidding opportunities and removes unnecessary restrictive wording.

PURPOSE: This rule describes [procedures for vendor registration, vendor notification of bidding opportunities, and] procedures for suspension and debarment of vendors.

[(1) Any individual, business, or organization may complete a commission vendor registration in order to be added to the commission's vendor database. It is the vendor's sole responsibility to update their vendor registration information with the commission.

(2) A person, business, or corporation contracting with the commission shall be considered as an independent contractor and shall not be considered nor represent him/herself as an employee or agency of the commission or department. A corporation must be authorized to do business in Missouri by registering with the Office of the Secretary of State before proceeding with work under a contract unless specifically exempt pursuant to section 351.572, RSMo.]

[(3)](1) Suspension. The director, or director's designee, may suspend a vendor for cause. [The vendor shall be mailed a] A formal notice of suspension outlining the reasons for, the specific conditions of, and the effective period of the suspension, shall be mailed to the vendor. The director or designee may suspend a vendor whenever, in their sole discretion, it is in the best interest of the commission to do so. It is the responsibility of the vendor, [U]pon completion of the suspension period [it shall be the responsibility of the vendor], to request, in writing, reinstatement if desired. [A request for reinstatement should be made in writing.]

(A) [Any] During suspension, bids/proposals submitted by a suspended vendor shall not be considered.

(B) The suspension of a vendor may be for a period of up to one hundred eighty (180) days for a first violation, and [for not more than] up to a year for subsequent violation(s).

(C) The vendor may appeal its suspension [by submitting a], in writing, within fourteen (14) calendar days after receiving the formal notice. The written request to the director or director's designee [within fourteen (14) calendar days after receipt of the formal notice. The vendor must provide] may include specific evidence and reasons why suspension is not warranted. On the basis of [this] the information in the appeal, the suspension may be modified, rescinded, or affirmed by the director. The director's final decision on the vendor's appeal shall be [final and] mailed to all parties.

[(4)](2) Debarment. The director, or director's designee, may debar a vendor for cause. A formal notice of debarment outlining the reasons for, the specific conditions of, and the actions necessary for the vendor to be eligible to contract again, shall be mailed to the vendor. The director may debar a vendor whenever, in the director's sole discretion, it is in the best interest of the commission to do so. A vendor may be debarred for a single incident of serious misconduct or after multiple less serious incidents. [The director shall notify the vendor of the reason for debarment and any action the vendor must take in order to be found eligible to contract again.]

(A) [Any] During debarment, bids/proposals submitted by a debarred vendor shall not be considered.

(B) [The vendor may appeal the debarment by requesting that the determination be reviewed by the director or designee. Any request for review must be in writing and filed within fourteen (14) calendar days after the date of receipt of the notice of debarment. The request must set forth specific evidence and reasons why debarment should be reversed. The director's determination on the vendor's appeal shall be final and mailed to all parties.] The vendor may appeal its debarment, in writing, within fourteen (14) calendar days after receiving the formal notice. The written request to the director may include specific evidence and reasons why debarment is not warranted and is addressed to the director. On the basis of this information, the debarment may be modified, rescinded, or affirmed. The director's decision on the vendor's appeal will be mailed to all parties and is considered the final decision.

[(5)](3) The following shall be sufficient cause for suspension or debarment. The list is not meant to be all inclusive but [shall serve as] is a guideline for vendor discipline and business ethics.

(A) Failure to perform in accordance with the terms and conditions and requirements of any contract/purchase order;

(B) Violating any federal, state, or local law, ordinance, or regulation in the performance of any contract/purchase order;

(C) Providing false or misleading information on an application, in a bid/proposal, or in correspondence to the department or a state agency;

(D) Failing to honor a bid/proposal for the length of time specified;

(E) Colluding with others to restrain competition;

(F) Obtaining information, by whatever means, related to a proposal submitted by a competitor in response to a [request for proposal (RFP)] solicitation in order to obtain an unfair advantage during the negotiation process; or

(G) Contacting proposal/bid evaluators or any other person who may have influence over the award, without authorization from the division, for the purpose of influencing the award of a contract.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.210, RSMo [2000] 2016. Original rule filed April 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed June 5, 2009, effective Jan. 30, 2010. Amended: Filed May 4, 2018.

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

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NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, Missouri 65102 or Pamela.Harlan@modot.mo.gov. 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 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution
Control Rules Specific to the Kansas City Metropolitan
Area

PROPOSED AMENDMENT

10 CSR 10-2.260 Control of Petroleum Liquid Storage, Loading and Transfer. The commission proposes to amend the purpose and sections (1) through (5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This amendment removes obsolete provisions, reduces the regulatory burden on facilities, improves consistency with the St. Louis rule 10 CSR 10-5.220 that regulates the same facilities, and clarifies rule language on testing, reporting, and other items. This amendment also complies with Executive Order 17-03 criteria and removes any unnecessary restrictive words, adds back definitions specific to the rule, and adds incorporations by reference as applicable. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

PURPOSE: This rule restricts volatile organic compound emissions from the handling of petroleum liquids in three (3) specific areas: petroleum storage tanks with a capacity greater than forty thousand (40,000) gallons, the loading of gasoline into delivery vessels, and the transfer of gasoline from delivery vessels into stationary storage containers. Exemptions are provided for facilities that make transfers

into stationary storage containers of certain sizes and types. This rule is [required in order] necessary to reduce hydrocarbon emissions in the Kansas City metropolitan area that contribute to the formation of ozone.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Applicability. This rule [shall apply] applies throughout Clay, Jackson, and Platte Counties.

(2) Definitions.

(A) **Bulk plant**—Any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or cargo tank and subsequently loads the gasoline into gasoline cargo tanks for transport to gasoline dispensing facilities, and has a gasoline throughput of less than twenty thousand (20,000) gallons per day. Gasoline throughput is the maximum calculated design throughput as may be limited by compliance with an enforceable condition under federal, state, or local law.

(B) **Bulk terminal**—Any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or delivery tank and has a gasoline throughput of twenty thousand (20,000) gallons per day or greater. Gasoline throughput is the maximum calculated design throughput as may be limited by compliance with an enforceable condition under federal, state, or local law.

[(A)](C) **CARB**—California Air Resources Board[, 2020 L Street, PO Box 2815, Sacramento, CA 95812].

(D) **Cargo tank**—A delivery tank truck or railcar which is loading gasoline or which has loaded gasoline on the immediately previous load.

(E) **Condensate (hydrocarbons)**—A hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions.

(F) **Crude oil**—A naturally occurring mixture consisting of hydrocarbons and sulfur, nitrogen, or oxygen derivatives of hydrocarbons (or a combination of these derivatives), which is a liquid at standard conditions.

(G) **Custody transfer**—The transfer of produced crude oil or condensate, or both, after processing or treating, or both, in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

[(B)](H) **Department**—Missouri Department of Natural Resources[, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102].

[(C)] **Initial fueling of motor vehicles**—The operation of dispensing gasoline fuel into a newly assembled motor vehicle at an automobile assembly plant while the vehicle is still being assembled on the assembly line. The newly assembled motor vehicles being fueled on the assembly line must have fuel tanks that have never before contained gasoline fuel.

(D) **MO/PETP**—The Missouri Performance Evaluation Test Procedures, a set of test procedures for evaluating performance of Stage I/II vapor control equipment and systems to be installed or that have been installed in Missouri. Contact the department for a copy of the latest MO/PETP.]

(I) **Delivery vessel**—A tank truck, trailer, or railroad tank car.

(J) **External floating roof**—A storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by petroleum liquid being contained and is equipped with a closure seal(s) to close the space

between the roof edge and tank wall.

(K) Gasoline—A petroleum liquid having a Reid vapor pressure four pounds (4 lbs) per square inch or greater.

(L) Gasoline dispensing facility (GDF)—Any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle and is not—

1. A gasoline distribution facility that transfers, loads, or unloads gasoline at bulk terminals, bulk plants, or pipeline facilities; or

2. A manufacturer of new motor vehicles performing initial fueling operations dispensing gasoline into newly assembled motor vehicles equipped with onboard refueling vapor recovery (ORVR) at an automobile assembly plant while the vehicle is still being assembled on the assembly line.

(M) Lower explosive limit (LEL)—The lower limit of flammability of a gas or vapor at ordinary ambient temperatures expressed in percent of the gas or vapor in air by volume.

(N) Monthly throughput—The total volume of gasoline that is loaded into all gasoline storage tanks during a month, as calculated on a rolling thirty (30)-day average.

(O) Onboard refueling vapor recovery (ORVR)—A system on motor vehicles designed to recover hydrocarbon vapors that escape during refueling.

(P) Petroleum liquid—Petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery with the exception of Numbers 2-6 fuel oils meeting ASTM D396-17 requirements as specified in 10 CSR 10-6.040(12), gas turbine fuel oils Number 2-GT-4-GT meeting ASTM D2880-15 requirements as specified in 10 CSR 10-6.040(20), and diesel fuel oils Number 2-D and 4-D meeting ASTM D975-17 requirements as specified in 10 CSR 10-6.040(14).

[(E)](Q) Staff director—Director of the Air Pollution Control Program of the Department of Natural Resources, or a designated representative.

[(F)](R) Stage I vapor recovery system—A system used to capture the gasoline vapors that would otherwise be emitted when gasoline is transferred from a loading installation to a delivery vessel or from a delivery vessel to a storage tank.

(S) Submerged fill pipe—Any fill pipe the discharge opening of which is entirely submerged when the liquid level is six inches (6") above the bottom of the tank. When applied to a tank that is loaded from the side, any fill pipe, the discharge opening of which is entirely submerged when the liquid level is eighteen inches (18") or twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank.

(T) True vapor pressure—The equilibrium partial pressure exerted by a petroleum liquid as determined in American Petroleum Institute, Manual of Petroleum Measurement Standards, Chapter 19.2, Evaporative Loss From Floating-Roof Tanks, 2012, as published by the American Petroleum Institute is incorporated by reference. Copies can be obtained from the API Publishing Services, 1220 L Street, Washington, DC 20005. This rule does not incorporate any subsequent amendments or additions.

(U) Ullage—Volume in a container left empty to provide for contents in the container to expand.

(V) Vapor recovery system—A vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing the hydrocarbon vapors and gases so as to limit their emission to the atmosphere.

(W) Vapor tight—When applied to a delivery vessel or vapor recovery system as one that sustains a pressure change of no more than seven hundred fifty (750) pascals (three inches (3") of water) in five (5) minutes when pressurized to a gauge pressure of four thousand five hundred (4,500) pascals (eighteen inches (18") of water) or evacuated to a gauge pressure of one thousand five hundred (1,500) pascals (six inches (6") of water).

(X) Waxy, heavy pour crude oil—A crude oil with a pour point of fifty degrees Fahrenheit (50 °F) or higher compliant with

ASTM D97-12 requirements as specified in 10 CSR 10-6.040(10).

[(G)](Y) Definitions of certain terms specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Petroleum Storage Tanks.

1. No owner or operator of petroleum storage tanks shall cause or permit the storage in any stationary storage tank of more than forty thousand (40,000) gallons capacity of any petroleum liquid having a true vapor pressure of one and one-half (1.5) pounds per square inch absolute (psia) or greater at ninety degrees Fahrenheit (90 °F), unless the storage tank is a pressure tank capable of maintaining working pressures sufficient at all times to prevent volatile organic compound (VOC) vapor or gas loss to the atmosphere or is equipped with one (1) of the following vapor loss control devices:

A. A floating roof, consisting of a pontoon type, double-deck type or internal floating cover, or external floating cover, that rests on the surface of the liquid contents and is equipped with a closure seal(s) to close the space between the roof edge and tank wall. Storage tanks with external floating roofs shall meet the additional following requirements:

(I) The storage tank shall be fitted with either—

(a) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or

(b) A closure or other device approved by the staff director that controls VOC emissions with an effectiveness equal to or greater than a seal required under subpart (3)(A)1.A.(I)(a) of this rule;

(II) All seal closure devices shall meet the following requirements:

(a) There are no visible holes, tears, or other openings in the seal(s) or seal fabric;

(b) The seal(s) is intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and

(c) For vapor-mounted primary seals, the accumulated area of gaps exceeding 0.32 centimeters, one-eighth inch (1/8") width, between the secondary seal and the tank wall shall not exceed 21.2 cm² per meter of tank diameter (1.0 in² per foot of tank diameter);

(III) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves shall be equipped with—

(a) Covers, seals or lids in the closed position except when the openings are in actual use; and

(b) Projections into the tank which remain below the liquid surface at all times;

(IV) Automatic bleeder vents shall be closed at all times except when the roof is floated off or landed on the roof leg supports;

(V) Rim vents shall be set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting; and

(VI) Emergency roof drains shall have slotted membrane fabric covers or equivalent covers which cover at least ninety percent (90%) of the area of the opening;

B. A vapor recovery system with all storage tank gauging and sampling devices gas-tight, except when gauging or sampling is taking place. The vapor disposal portion of the vapor recovery system shall consist of an adsorber system, condensation system, incinerator or equivalent vapor disposal system that processes the vapor and gases from the equipment being controlled; or

C. Other equipment or means of equal efficiency for purposes of air pollution control as approved by the staff director.

2. Control equipment described in subparagraph (3)(A)1.A. of this rule shall not be allowed if the petroleum liquid other than gasoline has a true vapor pressure of 11.1 psia or greater at ninety degrees Fahrenheit (90 °F). All storage tank gauging and sampling

devices shall be gas-tight except when gauging or sampling is taking place.

3. Owners and operators of petroleum storage tanks subject to this subsection shall maintain written records of maintenance (both routine and unscheduled) performed on the tanks, all repairs made, the results of all tests performed, and the type and quantity of petroleum liquid stored in them.

4. This subsection *[shall]* does not apply to petroleum storage tanks which—

A. Are used to store processed and/or treated petroleum or condensate when it is stored, processed, and/or treated at a drilling and production installation prior to custody transfer;

B. Contain a petroleum liquid with a true vapor pressure less than 27.6 kilopascals (kPa) (4.0 psia) at ninety degrees Fahrenheit (90 °F);

C. Are of welded construction, and equipped with a metallic-type shoe primary seal and have a shoe-mounted secondary seal or closure devices of demonstrated equivalence approved by the staff director; or

D. Are used to store waxy, heavy pour crude oil.

(B) Gasoline Loading.

1. No owner or operator of a gasoline *[loading installation]* distribution facility or delivery vessel shall cause or permit the loading of gasoline into any delivery vessel from a *[loading installation]* distribution facility unless the *[loading installation]* distribution facility is equipped with a vapor recovery system or equivalent. *[This system or system equivalent shall be approved by the staff director and the delivery vessel shall be in compliance with subsection (3)(D) of this rule]* **The delivery vessel must be in compliance with subsection (3)(D) of this rule.**

2. Loading shall be accomplished in a manner that the displaced vapors and air will be vented only to the vapor recovery system. Measures shall be taken to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected. The vapor disposal portion of the vapor recovery system shall consist of one (1) of the following:

A. An adsorber system, condensation system, incinerator, or equivalent vapor disposal system that processes the vapors and gases from the equipment being controlled and limits the discharge of VOC into the atmosphere to ten (10) milligrams of VOC vapor per liter of gasoline loaded;

B. A vapor handling system that directs the vapor to a fuel gas system; or

C. Other equipment of an efficiency equal to or greater than subparagraph (3)(B)2.A. or B. of this rule if approved by the staff director.

3. Owners and operators of *[loading installation]* distribution facilities subject to this subsection shall maintain complete records documenting the number of delivery vessels loaded and their owners.

4. This subsection *[shall]* does not apply to *[loading installation]* distribution facilities whose average monthly throughput of gasoline is less than or equal to one hundred twenty thousand (120,000) gallons when averaged over the most recent calendar year, provided that the installation loads gasoline by submerged loading.

A. *[To maintain the exemption]* Upon request of the director, these installations shall submit to the staff director *[on a form supplied by the department by February 1 of each year]*, a report stating gasoline throughput for each month of the previous calendar year. *[After the effective date of this rule, any revision to the department supplied forms will be presented to the regulated community for a forty-five (45) day comment period.]*

B. Delivery vessels purchased after *[the effective date of this rule]* April 30, 2004 shall be Stage I equipped.

[C. A loading installation that fails to meet the requirements of the exemption for one (1) calendar year shall not qualify for the exemption again.]

D. To maintain the exemption owners or operators shall maintain records of gasoline throughput and gasoline delivery.]

*[E.]*C. Delivery vessels operated by an exempt installation shall not deliver to Stage I controlled tanks unless the delivery vessel is equipped with and employs Stage I controls.

(C) Gasoline Transfer.

1. No owner or operator of a gasoline storage tank or delivery vessel shall cause or permit the transfer of gasoline from a delivery vessel into a gasoline storage tank with a capacity greater than *[two hundred fifty (250)]* five hundred fifty (550) gallons unless—

A. The storage tank is equipped with a submerged fill pipe extending unrestricted to within six inches (6") of the bottom of the tank, and not touching the bottom of the tank, or the storage tank is equipped with a system that allows a bottom fill condition;

B. All storage tank caps and fittings are vapor-tight when gasoline transfer is not taking place; and

C. Each storage tank is vented via a conduit that is:/—

(I) At least two inches (2") inside diameter;

(II) At least twelve feet (12') in height above grade; and

(III) Equipped with a pressure/vacuum valve that is CARB certified *[and MO/PETP approved at three inches water column pressure/eight inches water column vacuum (3" wcp/8" wcv). When the owner or operator provides documentation that the system is CARB certified for a different valve and will not function properly with a 3" wcp/8" wcv valve, the valve shall be MO/PETP approved. All pressure/vacuum valves shall be bench tested prior to installation. Initial fueling facilities shall have MO/PETP approved pressure/vacuum valves.]* or equivalent as approved by the staff director. **The pressure specifications for the pressure/vacuum valves shall be a positive pressure setting of two and one-half to six inches (2.5–6") of water and a negative pressure setting of six to ten inches (6–10") of water.**

2. Stationary storage tanks with a capacity greater than two thousand (2,000) gallons shall also be equipped with a Stage I vapor recovery system in addition to the requirements of paragraph (3)(C)1. of this rule and the delivery vessels to these tanks shall be in compliance with subsection (3)(D) of this rule.

A. The vapor recovery system shall collect no less than ninety percent (90%) by volume of the vapors displaced from the stationary storage tank during gasoline transfer and shall return the vapors via a vapor-tight return line to the delivery vessel. After the effective date of this rule, all coaxial systems shall be equipped with popped fittings.

B. At the time of installation and every six (6) years thereafter, each Stage I vapor recovery system shall be static pressure tested. The department must be notified at least seven (7) days prior to the test date to allow an observer to be present. The test results must be submitted to the staff director within fourteen (14) days of test completion. Each system has to be capable of meeting the static pressure performance requirement of the following equation:

$$P_f = 2e^{-760.490/v}$$

Where:

P_f = Minimum allowable final pressure, inches of water.

v = Total ullage affected by the test, gallons.

e = Dimensionless constant equal to approximately 2.718.

2 = The initial pressure, inches water.

C. Pressure/vacuum valves shall be bench tested at the time of installation and every three (3) years thereafter. The department must be notified at least seven (7) days prior to the test date to allow an observer the opportunity to be present. The test results must be submitted to the staff director within fourteen (14) days of test completion. The pressure specifications for

pressure vacuum valves must be a positive pressure setting of two and one-half to six inches (2.5–6") of water and a negative pressure setting of six to ten inches (6–10") of water. The leak rate of each pressure/vacuum valve shall not exceed four tenths (0.40) cubic foot per hour at a pressure of two inches (2.0") of water and four tenths (0.40) cubic foot per hour at a vacuum of four inches (4.0") of water.

[B./D. A delivery vessel shall be refilled only at installations complying with the provisions of subsection (3)(B) of this rule.

[C./E. This subsection shall not be construed to prohibit safety valves or other devices required by governmental regulations.

3. No owner or operator of a gasoline delivery vessel shall cause or permit the transfer of gasoline from a delivery vessel into a storage tank with a capacity greater than two thousand (2,000) gallons unless—

A. The owner or operator employs one (1) vapor line per product line during the transfer. The staff director may approve other delivery systems upon submittal to the department of test data demonstrating compliance with subparagraph (3)(C)2.A. of this rule;

B. *[The vapor hose(s) employed]* Each vapor hose is no less than three inches (3") inside diameter; *[and]*

C. *[The product hose(s) employed is no more than]* Each product hose is less than or equal to four inches (4") inside diameter.*./.*; and

D. Any component of the vapor recovery system that is not preventing vapor emissions as designed is repaired.

4. *[The owner or operator of stationary storage tanks subject to this subsection shall keep records documenting the vessel owners and number of delivery vessels unloaded by each owner. The owner or operator shall retain on-site copies of the loading ticket, manifest or delivery receipt for each grade of product received, subject to examination by the staff director upon request. If a delivery receipt is retained rather than a manifest or loading ticket, the delivery ticket shall bear the following information: vendor name, date of delivery, quantity of each grade, point of origin, and the manifest or loading ticket number. The required retention on-site of the loading ticket, manifest or delivery receipt shall be limited to the four (4) most recent records for each grade of product.]* The owner or operator of a vapor recovery system subject to subsection (3)(C) of this rule shall maintain records of inspection reports, enforcement documents, gasoline deliveries, routine and unscheduled maintenance, repairs, and all results of tests conducted. Unless otherwise specified in this rule, records have to be kept for two (2) years and made available to the staff director within five (5) business days of a request.

5. The provisions of paragraph (3)(C)2. of this rule *[shall]* do not apply to transfers made to storage tanks equipped with floating roofs or their equivalent.

6. The provisions of paragraphs (3)(C) 1.–4. of this rule *[shall]* do not apply to stationary storage tanks having a capacity less than or equal to two thousand (2,000) gallons used exclusively for the fueling of implements of agriculture or were installed prior to June 12, 1986.

(D) Gasoline Delivery Vessels.

1. No owner or operator of a gasoline delivery vessel shall operate or use a gasoline delivery vessel which is loaded or unloaded at an installation subject to subsections (3)(B) or (C) of this rule unless—

A. *[The delivery vessel is tested annually to demonstrate compliance with the test method specified in 40 CFR part 63, subpart R, section 63.425(e)]* Cargo tank tightness test is conducted annually;

B. The owner or operator obtains the completed test results signed by a representative of the testing facility upon successful completion of the leak test.*[. Blank test certification application forms for the test results will be provided to the testing facilities by the department. After the effective date of this rule,*

any revision to the department supplied forms will be presented to the regulated community for a forty-five (45)-day comment period. The owner or operator shall send a copy of the signed successful test results to the staff director. The staff director, upon receipt of acceptable test results, shall issue an official sticker to the owner or operator];

[C. The Missouri sticker is placed on the upper left portion of the back end of the vessel;]

[D./C. The delivery vessel is repaired by the owner or operator and retested within fifteen (15) days of testing if it does not *[meet the leak test criteria of paragraph (3)(D)1. of this rule]* pass the cargo tank tightness test; and

[E./D. A copy of the vessel's current *[Tank Truck Tightness Test]* cargo tank tightness test results are kept with the delivery vessel at all times and made immediately available to the staff director upon request.

[2. An owner or operator of a gasoline delivery vessel who can demonstrate to the satisfaction of the staff director that the vessel has passed a current annual leak test in another state shall be deemed to have satisfied the requirements of subparagraph (3)(D)1.A. of this rule, if the other state's leak test program requires the same gauge pressure and test procedures as the test specified in subparagraph (3)(D)1.A. of this rule. The owner or operator shall apply for a Missouri sticker and display the Missouri sticker on the upper left portion of the back end of the delivery vessel.

3. Owners and operators of gasoline delivery vessels shall maintain written records of all tests and maintenance performed on the vessels.]

[4./2. This subsection shall not be construed to prohibit safety valves or other devices required by governmental regulations.

(E) Owner/Operator Compliance. The owner or operator of a vapor recovery system subject to this rule shall—

1. Operate the vapor recovery system and the gasoline loading equipment in a manner that prevents—

A. Gauge pressure from exceeding four thousand five hundred (4,500) pascals (eighteen inches (18") of *[H₂O]* water) in the delivery vessel;

B. A reading equal to or greater than one hundred percent (100%) of the lower explosive limit (LEL, measured as propane) at two and one-half (2.5) centimeters from all points on the perimeter of a potential leak source when measured by *[the method referenced in]* Method 21—Determination of Volatile Organic Compound Leaks as specified in 10 CSR 10-6.030/(14)(E)/(22) during loading or transfer operations; and

C. Visible liquid leaks during loading or transfer operation;

2. Repair and retest within fifteen (15) days, a vapor recovery system that exceeds the limits in subsection (3)(E) of this rule; and

3. *[Maintain written records of inspection reports, enforcement documents, gasoline deliveries, routine and unscheduled maintenance and repairs and all results of tests conducted.]* The owner or operator of a vapor recovery system subject to subsection (3)(E) of this rule shall maintain records of inspection reports, enforcement documents, gasoline deliveries, routine and unscheduled maintenance, repairs, and all results of tests conducted. Unless otherwise specified in this rule, records shall be kept for two (2) years and made available to the staff director within five (5) business days of a request.

(4) Reporting and Record Keeping. The reporting and record keeping requirements are located in paragraphs (3)(A)3., (3)(B)3., (3)(C)4., *[/(3)(D)3.]* and (3)(E)3. of this rule. In addition, all records shall be maintained for a minimum of two (2) years, and shall be made immediately available to inspectors upon request.

(5) Test Methods.

(A) *[Testing and monitoring procedures to determine compliance with subsection (3)(D) of this rule and confirm the*

continuing existence of leak-tight conditions shall be conducted using the method referenced in 10 CSR 10-6.030(14)(B) or by any method determined by the staff director.] Testing procedures to determine compliance with subparagraph (3)(D)1.A. shall be performed according to 40 CFR 63.425(e), Subpart R. 40 CFR 63 promulgated as of June 30, 2018 is hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

(B) Testing procedures to determine compliance with subparagraph (3)(B)2.A. of this rule shall be conducted using [the method referenced in] Method 25—Determination of Total Gaseous Nonmethane Organic Emissions as Carbon as specified in 10 CSR 10-6.030((14)(A))(22) or by any method determined by the staff director.

[(D) A static leak decay test of the Stage I vapor recovery system shall be required once every five (5) years to demonstrate system vapor tightness. In addition, a bench test of each pressure/vacuum valve shall be required once every two (2) years to demonstrate component vapor tightness.]

[(E)](D) [Additional testing may also be required by the staff director in order to determine proper functioning of vapor recovery equipment.] Testing procedures to determine compliance with subparagraph (3)(C)2.B. of this rule shall be conducted using California Air Resources Board Vapor Recovery Test Procedure TP-201.1E—Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003, or by any method determined by the staff director. Test Procedure TP-201.1E is hereby incorporated by reference in this rule, as published by the California Air Resources Board. Copies can be obtained from the California Air Resources Board, PO Box 2815, Sacramento, CA 95812. This rule does not incorporate any subsequent amendments or additions.

(E) Testing procedures to determine compliance with subparagraph (3)(C)2.C. of this rule shall be conducted using California Air Resources Board Vapor Recovery Test Procedure TP-201.3—Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999, or by any method determined by the staff director. Test Procedure TP-201.3 is hereby incorporated by reference in this rule, as published by the California Air Resources Board. Copies can be obtained from the California Air Resources Board, PO Box 2815, Sacramento, CA 95812. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 643.050, RSMo [2000] 2016. Original rule filed Jan. 15, 1979, effective June 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri.

Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution
Control Rules Specific to the Kansas City Metropolitan
Area

PROPOSED AMENDMENT

10 CSR 10-2.300 Control of Emissions From the Manufacturing of Paints, Varnishes, Lacquers, Enamels, and Other Allied Surface Coating Products. The commission proposes to amend the purpose and sections (1) and (2); and amend and restructure existing sections (3)–(6) into new sections (3)–(5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words. This rulemaking will also restructure the rule into the standard rule organization format, clarify rule language, update incorporations by reference, and add definitions specific to this rule. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

PURPOSE: This [regulation] rule specifies operating equipment requirements and operating procedures for the reduction of volatile organic compounds from the manufacture of paints, varnishes, lacquers, enamels, and other allied surface coating products in [the Kansas City metropolitan area] Clay, Jackson, and Platte Counties.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) [Application] **Applicability.**

(A) This [regulation shall apply] rule applies throughout Clay, Jackson, and Platte Counties.

(B) This [regulation] rule applies to those [installations] facilities which have the uncontrolled potential to emit more than two hundred fifty kilograms per day (250 kg/day) or one hundred (100) tons per year of volatile organic compounds (VOCs) from the manufacture of paints, varnishes, lacquers, enamels, and other allied surface coating products. [This does not include any installation which

does not have an allowable VOC emission limit established under 10 CSR 10-6.060 or legally enforceable state implementation plan revision and which has uncontrolled potential emissions less than two hundred fifty (250) kg/day or one hundred (100) tons per year. The uncontrolled potential to emit is the potential emissions (as defined) plus the emissions removed by control devices.]

(2) Definitions [of certain terms specified in this regulation may be found in 10 CSR 10-6.020].

(A) Add-on control device—An air pollution control device, such as a thermal oxidizer or carbon adsorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

(B) Condenser—Any heat transfer device used to liquefy vapors by removing their latent heats of vaporization including, but not limited to, shell and tube, coil, surface, or contact condensers.

(C) Control device—Any equipment that reduces the quantity of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery. Includes, but is not limited to, incinerators, carbon adsorbers, and condensers.

(D) Director—Director of the Missouri Department of Natural Resources or a representative designated to carry out the duties as described in 643.060, RSMo.

(E) Facility—All contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

(F) Paints, varnishes, lacquers, enamels, and other allied surface coating manufacturing facility—Any facility which mixes, blends, or compounds paints, varnishes, lacquers, enamels, shellacs, or sealers which is classified under standard industrial classification code 2851, as described in the 1987 edition of the *Federal Standard Industrial Classification Manual* which is hereby incorporated by reference in this rule, as published by the Executive Office of the President, Office of Management and Budget. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401.

(G) Potential to emit—The emission rates of any pollutant at maximum design capacity. Annual potential shall be based on the maximum annual-rated capacity of the installation assuming continuous year-round operation. Federally enforceable permit conditions on the type of materials combusted or processed, operating rates, hours of operation, and the application of air pollution control equipment shall be used in determining the annual potential. Secondary emissions do not count in determining annual potential.

(H) Volatile organic compound (VOC)—See definition in 10 CSR 10-6.020.

(3) General Provisions. [No owner or operator of a manufacturing installation subject to this regulation and producing the products listed in section (1) shall cause or allow the manufacture of these products unless the operating equipment meets the requirements contained in this regulation and without adhering to operating procedures recommended by the equipment manufacturer and approved by the director.]

[(4)](A) Operating Equipment and Operating Procedure Requirements.

[(A)]1. Tanks storing VOC with a vapor pressure greater than or equal to ten kilo pascals (10 kPa) (1.5 psi) at twenty degrees Celsius (20 °C), shall be equipped with pressure/vacuum conservation vents set at 0.2 kPa (0.029 psi), except where more effective air pollution control is used and has been approved by the director. Stationary VOC storage containers with a capacity greater than two hundred fifty (250) gallons shall be equipped with a submerged-fill pipe or bottom fill, except where more effective air pollution control is used and has been approved by the director.

[(B)]2. Covers shall be installed on all open-top tanks used for the production of [nonwaterbase] non-water-based coating products. These covers shall and remain closed except when production, sampling, maintenance, or inspection procedures require operator access.

[(C)]3. Covers shall be installed on all tanks containing VOC used for cleaning equipment. These covers shall and remain closed except when operator access is required.

[(D)]4. All vapors from varnish cooking operations shall be collected and passed through a control device which removes at least eighty-five percent (85%) of the VOCs from these vapors before they are discharged to the atmosphere.

[(E)]5. All grinding mills shall be operated and maintained in accordance with manufacturer's specifications. The manufacturer's specifications shall be kept on file and made available to the director upon his/her request.

[(F)]6. The polymerization of synthetic varnish or resin shall be done in a completely enclosed operation with the VOC emissions controlled by the use of surface condensers or equivalent controls.

[1].A. If surface condensers are used, the temperature of the exit stream shall not exceed the temperature at which the vapor pressure is 3.5 kPa (0.5 psi) for any organic compound in the exit stream.

[2].B. If equivalent controls are used, the VOC emissions must be reduced by an amount equivalent to the reduction which would be achieved under subparagraph [(4)(F)1.] (3)(A)6.A. [Any owner or operator desiring to use equivalent controls to comply with this subsection shall submit proof of equivalency as part of the control plan required under subsection (5)(A) of this regulation.] Equivalent controls may not be used [unless] until proof of equivalency has been submitted to the department and approved by the director.

[(5) Compliance Dates.

(A) The owner or operator of a paint, varnish, lacquer, enamel or other allied surface coating production installation subject to this regulation shall submit a final control plan to the director for his/her approval no later than January 25, 1988. This plan shall include a time schedule for compliance containing an engineering design, increments of progress final compliance and testing dates.

(B) Compliance with this regulation shall be accomplished by affected installations promptly, but in no case later than March 31, 1988.]

[(6)](B) Compliance [Methods and Record Keeping] Determination.

[(A)]1. The VOC control efficiency/ies specified in [subsections (4)(D) and (F)] paragraphs (3)(A)4. and (3)(A)6. shall be determined by the [testing methods referenced in 10 CSR 10-6.030(14)(A)] method in section (5) of this rule. [The same method shall be used to sample emissions from alternate control measures subject to the director's review in subsection (4)(A).]

[(B)]2. Owners or operators utilizing add-on control technology shall monitor the following parameters continuously while the affected equipment is in operation:

[1].A. Exit stream temperature on all condensers;

[2].B. Routine and unscheduled maintenance and repair activities on all air pollution control equipment; and

[3].C. Any other parameter which the director determines is necessary to quantify emissions or otherwise determine compliance with this regulation.

[(C) Records shall be kept on production rates sufficient to determine daily VOC emissions and any equipment test results performed in conjunction with this regulation.

(D) The owner or operator shall maintain all recorded information required under subsections (6)(B) and (C) and shall keep the records for a period of not less than two (2) years. All these records shall be made available to the director upon

his/her request.]

(4) Reporting and Record Keeping.

(A) Records shall be kept on production rates sufficient to determine daily VOC emissions and any equipment test results performed in accordance with this regulation.

(B) The owner or operator shall maintain all recorded information required under section (4) of this rule. All records shall be kept for at least two (2) years and made available to the director upon request.

(5) Test Methods. 40 CFR 60, Appendix A-7, Method 25 as specified in 10 CSR 10-6.030(22).

AUTHORITY: section 643.050, RSMo [1986] 2016. Original rule filed April 2, 1986, effective Sept. 26, 1986. For intervening history, please consult the Code of State Regulations. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission

Chapter 5—Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area

PROPOSED AMENDMENT

10 CSR 10-5.500 Control of Emissions From Volatile Organic Liquid Storage. The commission proposes to amend sections (1), (3), (4), and (5); renumber current subsections (2)(B) and (2)(C); renumber and amend current subsection (2)(D); remove current subsection (2)(E); and add new subsections (2)(B)–(2)(L), (2)(N), and (2)(P)–(2)(X). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule limits the volatile organic compound (VOC) emissions from installations with volatile organic liquid storage vessels by incorporating reasonably available control technology (RACT) as

required by the Clean Air Act Amendments (CAAA) of 1990. The purpose of this rulemaking is to remove unnecessary restrictive words, add definitions specific to this rule, update incorporations by reference, and make other changes to clarify rule language. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

(1) Applicability.

(A) This rule [shall apply] applies throughout the City of St. Louis and St. Charles, St. Louis, Jefferson, and Franklin Counties.

(B) [The provisions of t/This rule [shall apply] applies to all storage [containers of] vessels with a capacity greater than or equal to forty thousand (40,000) gallons that are used to store volatile organic liquid (VOL) with [a maximum true vapor pressure of one-half pound per square inch (0.5 psia) or greater in any stationary tank, reservoir or other container of forty thousand (40,000) gallon capacity or greater, except to vessels as follows] the following exceptions:

1. Except as specified in subsections (4)(E) and (4)(H) of this rule, storage [V/]vessels with a capacity greater than or equal to forty thousand (40,000) gallons storing a liquid with a maximum true vapor pressure [of] less than one-half (0.5) psia are exempt from the provisions of this rule; and

2. Except as specified in subsections (4)(E) and (4)(H) of this rule, storage vessels with a design capacity less than forty thousand (40,000) gallons are exempt from the provisions of this rule.

(C) This rule does not apply to the following:

[2.]1. Vessels permanently attached to mobile vehicles such as trucks, railcars, barges, or ships;

[3.]2. Vessels used to store beverage alcohol;

[4.]3. Pressure vessels designed to operate in excess of twenty-nine and four-tenths (29.4) psia and without emissions to the atmosphere;

[5.]4. Vessels [of] at coke oven by-product plants;

[6.]5. Vessels used only to store or transfer petroleum liquids and that are subject to the requirements of 10 CSR 10-5.220; [or] and

[7.]6. Vessels used to store volatile organic liquids that are subject to or exempt from the requirements of 40 CFR [parts] 60, 61, or 63.

(2) Definitions.

(B) Closed vent system—A system that is not open to the atmosphere and that is composed of hard-piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device or back to a process.

(C) Condensate—Hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions.

(D) Control equipment—Any equipment that reduces the quantity of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery. Includes, but is not limited to, incinerators, carbon adsorbers, and condensers.

(E) Control device—An enclosed combustion device, vapor recovery system, or flare.

(F) Department—The Missouri Department of Natural Resources, which includes the director thereof, or the person or division or program within the department delegated the authority to render the decision, order, determination, finding, or other action that is subject to review by the commission. PO Box 176, Jefferson City, MO 65102.

(G) Director—Director of the Missouri Department of Natural Resources or a representative designated to carry out the duties as described in 643.060, RSMo.

(H) External floating roof—A storage vessel cover in an open

top tank consisting of a double deck or pontoon single deck which rests upon and is supported by petroleum liquid being contained and is equipped with a closure seal(s) to close the space between the roof edge and tank wall.

(I) Facility—All contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

(J) Federally enforceable—All limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR 55, 60, 61, and 63; requirements within any applicable state implementation plan; requirements in operating permits issued pursuant to 40 CFR 70 or 71, unless specifically designated as nonfederally enforceable; and any permit requirements established pursuant to 40 CFR 52.10, 52.21, or 55, or under regulations approved pursuant to 40 CFR 51, subpart I, including operating permits issued under a U.S. Environmental Protection Agency-approved program that is incorporated into the state implementation plan and expressly requires adherence to any permit issued under such program.

(K) Fill—The introduction of VOL into a storage vessel but not necessarily to complete capacity.

(L) Internal floating roof—A product cover in a fixed roof tank which rests upon or is floated upon the volatile organic compound liquid being contained and which is equipped with a sliding seal(s) to close the space between the edge of the covers and tank shell.

[(B)](M) Liquid-mounted seal—A foam- or liquid-filled seal mounted in contact with the liquid between the wall of the storage vessel and the floating roof continuously around the circumference of the tank.

(N) Maximum true vapor pressure—The equilibrium partial pressure exerted by the stored VOL, at the temperature equal to the highest calendar-month average of the VOL storage temperature for VOLs stored above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for VOLs stored at the ambient temperature, as determined by an appropriate test method in section (5) of this rule.

[(C)](O) Mechanical shoe seal—A metal sheet held vertically against the wall of the storage vessel by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

(P) Petroleum—The crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

(Q) Petroleum liquids—Petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery.

(R) Petroleum refinery—Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, extracting, or reforming of unfinished petroleum derivatives.

(S) Reid vapor pressure—The absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases, as determined by an appropriate test method in section (5) of this rule.

(T) Standard conditions—A gas temperature of seventy degrees Fahrenheit (70 °F) and a gas pressure of 14.7 pounds per square inch absolute (psia).

(U) Storage vessel—Any tank, reservoir, or container used for the storage of volatile organic liquids, but does not include:

1. Frames, housing, auxiliary supports, or other components that are not directly involved in the containment of liquids or vapors; or

2. Subsurface caverns or porous rock reservoirs.

(V) Vapor-mounted seal—A foam-filled primary seal mounted continuously around the circumference of the tank so there is an

annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof.

(W) Vapor Recovery system—An individual unit or series of material recovery units, such as absorbers, condensers, and carbon adsorbers, used for recovering volatile organic compounds.

(X) Volatile organic compound (VOC)—See definition in 10 CSR 10-6.020.

[(D)](Y) Volatile organic liquid (VOL)—Any substance which is a liquid at storage conditions [and which contains] containing one (1) or more volatile organic compounds [as defined in 10 CSR 10-6.020].

[(E) Definitions of certain terms specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.]

(3) General Provisions.

(A) Every owner or operator storing VOL in a vessel of forty thousand (40,000) gallons or greater with a maximum true vapor pressure greater than or equal to one-half (0.5) psia but less than three-quarters (0.75) psia shall be subject to the [record-keeping] record keeping requirements [of] in subsection (4)/(G)/(F) of this rule and the monitoring requirements [of] in subsection (4)/(H)/(G) of this rule. Furthermore, every owner or operator storing VOL in a vessel of forty thousand (40,000) gallons or greater with a maximum true vapor pressure equal to three-quarters (0.75) psia but less than eleven and one-tenth (11.1) psia shall reduce VOC emissions from storage [tanks, reservoirs or other containers] vessels as follows:

1. [Each] Equip each fixed roof [tank shall be equipped] storage vessel with a vapor control system that meets the specifications contained in paragraph (3)(A)3. of this rule or an internal floating roof that meets the following specifications [or shall be equipped with a vapor control system that meets the specifications contained in paragraph (3)(A)4. of this rule]:

A. The internal floating roof shall rest or float on the liquid surface but not necessarily in complete contact with it inside a storage vessel that has a fixed roof. The internal floating roof shall be floating on the liquid surface at all times, except during initial fill and during those intervals when the storage vessel is completely emptied and subsequently refilled. When the roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and [shall be] accomplished as rapidly as possible;

B. Each internal floating roof shall be equipped with one (1) of the following closure devices between the wall of the storage vessel and the edge of the internal floating roof:

(I) A liquid-mounted seal;

(II) Two (2) seals mounted one (1) above the other so that each forms a continuous closure that completely covers the space between the wall of the storage vessel and the edge of the internal floating roof. The lower seal may be vapor-mounted, but both must be continuous; or

(III) A mechanical shoe seal;

C. Each opening in a non-contact internal floating roof except for automatic bleeder vents such as vacuum breaker vents and the rim space vents shall provide a projection below the liquid surface;

D. Each opening in the internal floating roof except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains shall be equipped with a cover or lid which is to be maintained in a closed position at all times with no visible gap except when the device is in actual use. The cover or lid shall be equipped with a gasket. Covers on each access hatch and automatic gauge float well shall be bolted except when they are in use;

E. Automatic bleeder vents shall be equipped with a gasket and [shall be] remain closed at all times when the roof is floating except when the roof is being floated off or is being landed on the roof leg supports;

F. Rim space vents shall be equipped with a gasket and [shall

be] set to open only when the internal floating roof is not floating or at the manufacturer's recommended setting;

G. Each penetration of the internal floating roof for the purpose of sampling a sample well. *The sample well shall have] with a slit fabric cover that covers at least ninety percent (90%) of the opening; and*

H. Each penetration of the internal floating roof that allows for passage of a ladder shall have a gasketed sliding cover;

2. During the next scheduled tank cleaning or before March 15, 2004, whichever comes first, each internal floating roof shall meet the specifications set forth in subparagraphs (3)(A)1.A. through (3)(A)1.H. of this rule;]

[3.]2. Each external floating roof [tank] storage vessel shall meet the following specifications:

A. Each external floating roof shall be equipped with a closure device between the wall of the storage vessel and the roof edge. The closure device shall consist of two (2) seals, one (1) above the other. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal.

(I) Except as provided in subparagraph (3)(C)2.D. of this rule, the primary seal shall completely cover the annular space between the edge of the floating roof and [tank] storage vessel wall and shall be either a liquid-mounted seal or a mechanical shoe seal.

(II) The secondary seal shall completely cover the annular space between the external floating roof and the wall of the storage vessel in a continuous fashion except as allowed in subparagraph (3)(C)2.D. of this rule[.];

[(III)] The tank shall be equipped with the closure device after the next scheduled tank cleaning, but no later than March 15, 2004;]

B. Except for automatic bleeder vents and rim space vents, each opening in a non-contact external floating roof shall provide a projection below the liquid surface. Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be equipped with a gasketed cover, seal or lid that is to be maintained in a closed position at all times with no visible gap except when the device is in actual use. Automatic bleeder vents shall be closed at all times when the roof is floating except when the roof is being floated off or is being landed on the roof leg supports. Rim vents shall be set open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Automatic bleeder vents and rim space vents shall be gasketed. Each emergency roof drain shall include a slotted membrane fabric cover that covers at least ninety percent (90%) of the area of the opening; and

C. The roof shall be floating off the roof leg supports on the liquid at all times except when the [tank] storage vessel is completely emptied and subsequently refilled. The process of filling, emptying, or refilling when the roof is resting on the leg supports shall be continuous and [shall be] accomplished as rapidly as possible;

[4.]3. [After the next tank cleaning but no later than March 15, 2004, a c]Closed vent systems and control devices respectively shall meet the following specifications:

A. The closed vent system shall be designed to collect all VOC vapors and gases discharged from the storage vessel and operated with no detectable emissions as indicated by an instrument reading of less than five hundred parts per million (500 ppm) above background and visual inspections, as determined by the methods [specified] in 40 CFR 60.485(c), [which is hereby incorporated by reference] as specified in 10 CSR 10-6.030(22); and

B. The control device shall be designed and operated to reduce inlet VOC emissions by ninety percent (90%) or greater. If a flare is used as the control device, it shall meet the specifications described in the general control device requirements of 40 CFR 60.18, [which is hereby incorporated by reference] as specified in 10 CSR 10-6.030(22); or

[5.]4. An alternative emission control plan equivalent to the requirements of paragraphs (3)(A)1., (3)(A)2., or (3)(A)3. [or (3)(A)4.] of this rule that has been approved by the department and

the United States Environmental Protection Agency in a federally enforceable permit.

(B) *[After the next tank cleaning but no later than March 15, 2004, t]The owner or operator of each storage vessel with a design capacity equal to or greater than forty thousand (40,000) gallons which contains VOL that, as stored, has a maximum true vapor pressure greater than or equal to eleven and one-tenth (11.1) psia shall equip each storage vessel with a closed vent system and control device as specified in paragraph (3)(A)[4.]3. of this rule.*

(C) Testing Requirements. The owner or operator of each storage vessel specified in section (1) of this rule shall comply with the requirements of paragraph (3)(C)1., (3)(C)2., or (3)(C)3. of this rule. The applicable requirements for a particular storage vessel depends on the control equipment installed to meet the requirements of this rule.

1. After installing the control equipment necessary [for the source] to comply with [the requirements of] paragraph[s] (3)(A)1. [and (3)(A)2.] of this rule for permanently affixed roofs and internal floating roofs, each owner or operator shall—

A. Visually inspect the internal floating roof, the primary seal, and the secondary seal (if one (1) is in service) prior to filling the storage vessel with VOL. If there are holes, tears, or other openings in the primary seal, the secondary seal, or the seal fabric or defects in the internal floating roof, or both, [the owner or operator shall] repair the items before filling the storage vessel;

B. For storage vessels equipped with a liquid-mounted or mechanical shoe primary seal, visually inspect the internal floating roof and the primary seal or the secondary seal (if one (1) is in service) through manholes and roof hatches on the fixed roof at least once every twelve (12) months after initial fill. If the internal floating roof is not resting on the surface of the VOL inside the storage vessel, or if there is liquid accumulated on the roof, or if the seal is detached, or if there are holes or tears in the seal fabric, [the owner or operator shall] repair the items or empty and remove the storage vessel from service within forty-five (45) days. If a failure that is detected during inspections required in this rule subsection cannot be repaired within forty-five (45) days and if the storage vessel cannot be emptied within forty-five (45) days, the owner or operator may request a thirty (30)-day extension from the department in the inspection report [required] described in paragraph (4)(A)2. of this rule. Such a request for an extension must document that alternate storage capacity is unavailable and specify a schedule of actions the owner or operator will take that will assure that the control equipment will be repaired or the storage vessel will be emptied within thirty (30) days;

C. For storage vessels equipped with both primary and secondary seals—

(I) Visually inspect the storage vessel as specified in subparagraph (3)(C)1.D. of this rule at least every five (5) years; or

(II) Visually inspect the storage vessel as specified in subparagraph (3)(C)1.B. of this rule;

D. Visually inspect the internal floating roof, [the] primary seal, [the] secondary seal (if one (1) is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the storage vessel is emptied and degassed. If the internal floating roof has defects, the primary seal has holes, tears, or other openings in the seal, or if the seal fabric or the secondary seal has holes, tears, or other openings in the seal, or if the seal fabric or the gaskets no longer close off the liquid surfaces from the atmosphere, or if the slotted membrane has more than ten percent (10%) open area, [the owner or operator shall] repair the items as necessary so that none of the conditions specified in this rule subsection exist before refilling the storage vessel with VOL. In no event shall inspections conducted in accordance with this provision occur at intervals greater than ten (10) years in the case of storage vessels subject to the annual visual inspection as specified in subparagraph (3)(C)1.B. and part (3)(C)1.C.(II) of this rule and at intervals no greater than five (5) years in the case of storage vessels specified in part (3)(C)1.C.(I) of this rule; and

E. Notify the department in writing at least thirty (30) days prior to the filling or refilling of each storage vessel for which an inspection is *[required by]* conducted in accordance with subparagraphs (3)(C)1.A. and (3)(C)1.D. of this rule to afford the department the opportunity to have an observer present. If the inspection *[required by]* under subparagraph (3)(C)1.D. of this rule is not planned and the owner or operator could not have known about the inspection thirty (30) days in advance of refilling the *[tank] storage vessel*, *[the owner or operator shall]* notify the department at least seven (7) days prior to the refilling of the storage vessel. Notification shall be made by telephone immediately followed by written documentation demonstrating why the inspection was unplanned. Alternatively, this notification including the written documentation may be made in writing and sent by express mail so that it is received by the department at least seven (7) days prior to the refilling.

2. The owner or operator of external floating roof *[tanks] storage vessels* shall—

A. Determine the gap areas and maximum gap widths between the primary seal and the wall of the storage vessel and between the secondary seal and the wall of the storage vessel.

(I) Perform *[M]*measurements of gaps between the *[tank] storage vessel* wall and the primary seal (seal gaps) *[shall be performed]* during the hydrostatic testing of the *storage vessel* or within sixty (60) days after the initial fill with VOL and at least once every five (5) years thereafter.

(II) Perform *[M]*measurements of gaps between the *[tank] storage vessel* wall and the secondary seal *[shall be performed]* within sixty (60) days after the initial fill with VOL and at least once per year thereafter.

(III) If any source ceases to store VOL for a period of one (1) year or more, subsequent introduction of VOL into the *storage vessel* shall be considered an initial fill for the purposes of parts (3)(C)2.A.(I) and (3)(C)2.A.(II) of this rule;

B. Determine gap widths and areas in the primary and secondary seals individually according to the following procedures:

(I) Measure seal gaps, if any, at one (I) or more floating roof levels when the roof is floating off the roof leg supports;

(II) Measure seal gaps around the entire circumference of the *[tank] storage vessel* in each place where a one-eighth inch (1/8") in diameter uniform probe passes freely without forcing or binding against seal between the seal and the wall of the storage vessel and measure the circumferential distance of each such location; and

(III) Determine the total surface area of each gap described in part (3)(C)2.B.(II) of this rule by using probes of various widths to measure accurately the actual distance from the *[tank] storage vessel* wall to the seal and multiplying each such width by its respective circumferential distance;

C. Add the gap surface area of each gap location for the primary seal and the secondary seal individually and divide the sum for each by the nominal diameter of the *[tank] storage vessel* and compare each ratio to the respective standards in subparagraph (3)(C)2.D. of this rule;

D. Make necessary repairs or empty the storage vessel within forty-five (45) days after identification in any inspection for seals not meeting the requirements listed in parts (3)(C)2.D.(I) and (3)(C)2.D.(II) of this rule.

(I) The accumulated area of gaps between the *[tank] storage vessel* wall and the mechanical shoe or liquid-mounted primary seal shall not exceed one inch (1.0") per foot of *[tank] storage vessel* diameter, and the width of any portion of any gap shall not exceed one and one-half inches (1.5"). There shall be no holes, tears, or other openings in the shoe, seal fabric, or seal envelope.

(II) The secondary seal shall meet the following requirements:

(a) Be installed above the primary seal so that it completely covers the space between the roof edge and the *[tank] storage vessel* wall except as provided in part (3)(C)2.B.(III) of this rule;

(b) The accumulated area of gaps between the *[tank] storage vessel* wall and the secondary seal used in combination with a metallic shoe or liquid-mounted primary seal shall not exceed one inch (1.0") per foot of *[tank] storage vessel* diameter, and the width of any portion of any gap shall not exceed one-half inch (0.5"). There shall be no gaps between the *[tank] storage vessel* wall and the secondary seal when used in combination with a vapor mounted primary seal; and

(c) There shall be no holes, tears, or other openings in the seal or seal fabric.

(III) If a failure that is detected during inspections required in subparagraph (3)(C)2.A. of this rule cannot be repaired within forty-five (45) days and if the *storage vessel* cannot be emptied within forty-five (45) days, the owner or operator may request a thirty (30)-day extension from the department in the inspection report required in subparagraph (3)(C)2.D. of this rule. Such extension request must include a demonstration of unavailability of alternate storage capacity and a specification of a schedule that will assure that the control equipment will be repaired or the *storage vessel* will be emptied as soon as possible;

E. Notify the department thirty (30) days in advance of any gap measurements required by subparagraph (3)(C)2.A. of this rule to afford the department the opportunity to have an observer present; and

F. Visually inspect the external floating roof, the primary seal, secondary seal, and fittings each time the *storage vessel* is emptied and degassed.

(I) If the external floating roof has defects, if the primary seal has holes, tears, or other openings in the seal or the seal fabric, or if the secondary seal has holes, tears, or other openings in the seal or the seal fabric, *[the owner or operator shall]* repair the items as necessary so that none of the conditions specified in this rule subsection exist before filling or refilling the storage vessel with VOL.

(II) For all the inspections required by subparagraph (3)(C)2.F. of this rule, the owner or operator shall notify the department in writing at least thirty (30) days prior to the filling or refilling of each storage vessel to afford the department the opportunity to inspect the storage vessel prior to refilling. If the inspection *[required by]* under subparagraph (3)(C)2.F. of this rule is not planned and the owner or operator could not have known about the inspection thirty (30) days in advance of refilling the *[tank] storage vessel*, *[the owner or operator shall]* notify the department at least seven (7) days prior to the refilling of the storage vessel. Notification shall be made by telephone immediately followed by written documentation demonstrating why the inspection was unplanned. Alternatively, this notification including the written documentation may be sent by express mail so that it is received by the department at least seven (7) days prior to the refilling.

3. The owner or operator of each *[source that is] storage vessel* equipped with a closed vent system and a flare to meet the requirements of paragraph (3)(A)4.3. of this rule shall meet the requirements specified in the general control device requirements of 40 CFR 60.18(e) and (f), *[which are hereby incorporated by reference] as specified in 10 CSR 10-6.030(22)*.

(4) Reporting and Record Keeping. *[The owner or operator shall maintain all records required by this rule section, except for the records required by subsection (4)(F) of this rule, on-site for at least five (5) years. The records required by subsection (4)(F) of this rule shall be kept on-site for the life of the source. The records required by this rule shall be made available to the department immediately upon request.]*

(A) After installing control equipment in accordance with paragraph (3)(A)1. *[or (3)(A)2.]* of this rule for fixed roofs and internal floating roofs, the owner or operator shall—

1. Keep a record of each inspection performed as required by subparagraphs (3)(C)1.A., (3)(C)1.B., (3)(C)1.C., and (3)(C)1.D. of this rule. Each record shall identify the storage vessel on which the

inspection was performed *[and shall]*, contain the date the **storage** vessel was inspected, and the observed condition of each component of the control equipment including seals, internal floating, and fittings;

2. If any of the conditions described in subparagraph (3)(C)1.B. of this rule are detected during the annual visual inspection *[required by subparagraph (3)(C)1.B. of this rule]*, report to the department within twenty (20) days after the inspection the identity of the storage vessel, the nature of the defects, and the date the storage vessel was emptied or the nature of and date the repair was made; and

3. After each inspection required by subparagraph (3)(C)1.C. of this rule where tears or holes in the seal or seal fabric, or defects in the internal floating roof, or other control equipment defects listed in part (3)(C)1.C.(II) of this rule are discovered, report to the department within twenty (20) days after the inspection the identity of the storage vessel and the reason it did not meet the specifications of paragraph (3)(A)1./, (3)(A)2./ or (3)(C)1. of this rule, and list each repair made.

(B) After installing control equipment in accordance with paragraph (3)(A)3./2. of this rule for external floating roofs, the owner or operator shall—

1. Within sixty (60) days after performing the seal gap measurements required by subparagraph (3)(C)2.A. of this rule, furnish the department with a report that contains the date of measurement, the raw data obtained in the measurement, and the calculations of this rule described in subparagraphs (3)(C)2.B. and (3)(C)2.C. of this rule;

2. Maintain records of each gap measurement performed *[as required by]* under subparagraph (3)(C)2.B. of this rule. Such records shall identify the storage vessel in which the measurement was performed and shall contain the date of measurement, the raw data obtained in the measurement, and the calculations of this rule described in subparagraphs (3)(C)2.B. and (3)(C)2.C. of this rule; and

3. After each seal gap measurement that detects gaps exceeding the limitations specified by subparagraph (3)(C)2.D. of this rule, submit a report to the department within twenty (20) days after the inspection identifying the **storage** vessel and containing the information specified in paragraph (4)(B)1. of this rule and the date the **storage** vessel was emptied or the repairs were made and the date of the repair.

(C) After installing control equipment to comply with subsection (3)(C) of this rule for closed vent systems and control device other than a flare, the owner or operator shall maintain a record of the measured values of the parameters monitored in accordance with the requirements of this rule.

(D) After installing a closed vent system and flare to comply with subsection (3)(C) of this rule, the owner or operator shall—

1. Provide the department with a report containing the measurements *[required by 40 CFR 60.18(f)(1), (2), (3), (4), (5), and (6)]* recorded under paragraph (3)(C)3. of this rule within six (6) months after the initial start-up date;

2. Maintain records of all periods of operation during which the flare pilot flame is absent; and

3. Report semiannually all periods recorded under *[40 CFR 60.115b(d)(2), which is hereby incorporated by reference,]* paragraph (4)(D)2. of this rule in which the pilot flame was absent.

[(E) The owner or operator shall maintain records of tank cleaning operations to document the date when control devices are required.]

[(F)](E) The owner or operator of each storage vessel specified in section (1) of this rule shall maintain readily accessible records of the dimensions of the storage vessel and an analysis of the capacity of the storage vessel. Each storage vessel with a design capacity less than forty thousand (40,000) gallons is subject to no provision of this rule other than those required by maintaining readily accessible records of the dimensions of the storage vessel and analysis of the capacity of the storage vessel.

[(G)](F) Except as provided in paragraphs *[(4)(H)3. and (4)(H)4.]* (4)(G)3. and (4)(G)4. of this rule, the owner or operator of each storage vessel subject to the requirements in subsection (3)(A) or (3)(B) of this rule with a design capacity greater than or equal to forty thousand (40,000) gallons storing a liquid with a maximum true vapor pressure greater than or equal to one-half (0.5) psia but less than three-quarters (0.75) psia shall maintain a record of the VOL storage, the period of storage, and the maximum true vapor pressure of the VOL during the respective storage period.

[(H)](G) Monitoring Requirements.

1. Except as provided in paragraph *[(4)(H)4.]* (4)(G)4. of this rule, the owner or operator of each storage vessel with a design capacity greater than or equal to forty thousand (40,000) gallons storing a liquid with a maximum true vapor pressure that is normally less than three-quarters (0.75) psia shall notify the department within thirty (30) days when the maximum true vapor pressure of the liquid exceeds three-quarters (0.75) psia.

2. Available data on the storage temperature may be used to determine the maximum true vapor pressure.

A. For **storage** vessels operated above or below ambient temperatures, the maximum true vapor pressure is calculated based upon the highest expected calendar-month average of the storage temperature. For **storage** vessels operated at ambient temperatures, the maximum true vapor pressure is calculated based upon the maximum local monthly average ambient temperature as reported by the National Weather Service.

B. For other liquids, the vapor pressure shall be determined by an appropriate test method in section (5) of this rule or calculated by an appropriate method approved by the department.

3. The owner or operator of each **storage** vessel storing a mixture of indeterminate or variable composition shall be subject to the following:

A. Prior to the initial filling of the **storage** vessel, the maximum true vapor pressure for the range of anticipated liquid compositions to be stored will be determined using the methods described in paragraph *[(4)(H)2.]* (4)(G)2. of this rule; and

B. For **storage** vessels in which the vapor pressure of the anticipated liquid composition is one-half (0.5) psia or greater but less than three-quarters (0.75) psia, **perform** an initial physical test of the vapor pressure *[is required]*; a physical test at least once every six (6) months thereafter is required as determined by an appropriate test method in section (5) of this rule.

4. The owner or operator of each **storage** vessel equipped with a closed vent system and control device meeting the specifications of subsection (3)(A) or (3)(B) of this rule is exempt from the requirements of paragraphs *[(4)(H)1. and (4)(H)2.]* (4)(G)1. and (4)(G)2. of this rule.

(H) The owner or operator shall maintain all records required by this rule section, except for the records described in subsection (4)(E) of this rule, on-site for at least five (5) years. The records described in subsection (4)(E) of this rule shall be kept on-site for the life of the source. The records required by this rule shall be made available to the department immediately upon request.

(5) Test Methods.

(A) *[Compliance with the requirements of this rule shall be determined by applying the following test methods, as appropriate:]* Petroleum Institute (API) Manual of Petroleum Measurement Standards (MPMS) Chapter 19.2 *Evaporative Loss from External Floating-Roof Tanks*, Third Edition, as published by API October 2012. This manual is hereby incorporated by reference in this rule. Copies can be obtained from API, 1220 L Street NW, Washington, DC 20005. This rule does not incorporate any subsequent amendments or additions.

1. *Test Methods 1 and 2 (40 CFR 60, Appendix A) for determining flow rates, as necessary;*

2. *Test Method 18 (40 CFR 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;*

3. Test Method 21 (40 CFR 60, Appendix A) for determination of volatile organic compound leaks;

4. Test Method 22 (40 CFR 60, Appendix A) for visual determination of fugitive emissions from material sources and smoke emissions from flares;

5. Test Method 25 (40 CFR 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;

6. Test Methods 25A or 25B (40 CFR 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis;

7. Test method described in 40 CFR 60.113(a)(ii) for measurement of storage tank seal gap;

8. Determination of true vapor pressure using American Society for Testing and Materials (ASTM) Test Methods D323-94, D4953, D5190 or D5191 for the measurement of Reid vapor pressure; and

9. Other test methods for determining compliance may be used if found to be equivalent after review by the department.]

(B) American Society of Testing and Materials (ASTM) D323-15a Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method), as specified in 10 CSR 10-6.040(11).

(C) ASTM D2879-10 Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenscope, as specified in 10 CSR 10-6.040(35).

(D) ASTM D4953-15 Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method), as specified in 10 CSR 10-6.040(26).

(E) ASTM D5191-15 Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method), as specified in 10 CSR 10-6.040(27).

(F) Other method approved by the director.

AUTHORITY: section 643.050, RSMo [Supp. 1998] 2016. Original rule filed July 15, 1999, effective Feb. 29, 2000. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution
Control Rules Specific to the St. Louis Metropolitan
Area**

PROPOSED AMENDMENT

10 CSR 10 5.530 Control of Volatile Organic Compound Emissions From Wood Furniture Manufacturing Operations. The commission proposes to amend the purpose, sections (3)–(4), and subsections (1)(A), (1)(B), (1)(D), (2)(A), (2)(E), (2)(M), (2)(X), (2)(AA), (2)(DD), (2)(RR), (5)(A), and (5)(C). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this amendment is to remove unnecessary restrictive words, correct test method references, and make minor clarifications and grammatical changes. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction review and related comments.

PURPOSE: This rule limits the volatile organic compound (VOC) emissions from wood furniture manufacturing operations by incorporating reasonably available control technology (RACT) [as required by] per 172(c)(1) of the Clean Air Act [Amendments (CAAA) of 1990].

(1) Applicability.

(A) This rule [shall apply] applies throughout the City of St. Louis and St. Charles, St. Louis, Jefferson, and Franklin Counties.

(B) This rule is applicable to all existing wood furniture manufacturing installations that have the potential to emit equal to or greater than twenty-five (25) tons per year of volatile organic compounds (VOC).

(D) In the event that other rules in Title 10 Division 10 of the Code of State Regulations are also applicable to wood furniture manufacturing installations, the more stringent rule [requirement shall apply] applies.

(2) Definitions.

(A) Adhesive—Any chemical substance [that is] applied for [the purpose of] bonding two (2) surfaces together other than by mechanical means.

(E) Basecoat—A coat of colored material, usually opaque, [that is] applied before graining inks, glazing coats, or other opaque finishing materials and is usually topcoated for protection.

(M) Continuous coater—A finishing system that continuously applies finishing materials onto furniture parts moving along a conveyor system. Finishing materials that are not transferred to the part are recycled to the finishing material reservoir. Several types of application methods [can] may be used with a continuous coater including spraying, curtain coating, roll coating, dip coating, and flow coating.

(X) Finishing material—[A c/Coatings used in the wood furniture industry]. For the wood furniture manufacturing industry, such materials include including, but [are] not limited to, basecoats, stains, washcoats, sealers, and topcoats.

(AA) Nonpermanent final finish—A material such as a wax, polish, nonoxidizing oil, or similar substance that must be [periodically] reapplied periodically to a surface over its lifetime to maintain or restore the [reapplied] material's intended effect.

(DD) Organic solvent—A liquid containing volatile organic compounds [that is] used for dissolving or dispersing constituents in a coating, adjusting the viscosity of a coating, cleaning, or washoff. When used in a coating, the organic solvent evaporates during drying and does not become a part of the dried film.

(RR) Wood furniture component—Any part [that is] used in the

manufacture of wood furniture. Examples include, but are not limited to, drawer sides, cabinet doors, seat cushions, and laminated tops.

(3) General Provisions.

(A) Restriction of Emissions.

1. The owner or operator of an affected source shall limit VOC emissions from finishing operations by complying with one (1) of the following requirements:

A. Where only topcoat is applied without sealers, the topcoat shall have a VOC content no greater than Table 1; or

	kg VOC/kg solids (as applied)	lb VOC/lb solids (as applied)
Topcoat	0.8	0.8

B. Where topcoat and sealers are applied and—

(I) Where sealer is not acid-cured alkyd amino vinyl or topcoat is not acid-cured alkyd amino conversion varnish, the VOC contents shall be no more than shown in Table 2;

	kg VOC/kg solids (as applied)	lb VOC/lb solids (as applied)
Sealer	1.9	1.9
Topcoat	1.8	1.8

(II) Where sealer is acid-cured alkyd amino vinyl and topcoat is acid-cured alkyd amino conversion varnish, the VOC contents shall be no more than shown in Table 3;

	kg VOC/kg solids (as applied)	lb VOC/lb solids (as applied)
Sealer	2.3	2.3
Topcoat	2.0	2.0

(III) Where sealer is not acid-cured alkyd amino vinyl and topcoat is acid-cured alkyd amino conversion varnish, the VOC contents shall be no more than shown in Table 4; or

	kg VOC/kg solids (as applied)	lb VOC/lb solids (as applied)
Sealer	1.9	1.9
Topcoat	2.0	2.0

(IV) Where sealer is acid-cured alkyd amino vinyl and topcoat is not acid-cured alkyd amino conversion varnish, the VOC contents shall be no more than shown in Table 5.

	kg VOC/kg solids (as applied)	lb VOC/lb solids (as applied)
Sealer	2.3	2.3
Topcoat	1.8	1.8

2. As an alternate to the finishing operation requirements of paragraph (3)(A)1. of this rule, the owner or operator of an affected source may use an averaging approach to verify compliance by using this paragraph. Compliance is demonstrated when actual emissions from the affected source are less than or equal to allowable emissions using one (1) of the following inequalities:

$$0.9(0.8(TC_1 + TC_2 + \dots)) \geq [(ER_{TC1})(TC_1) + (ER_{TC2})(TC_2) + \dots] \tag{1}$$

$$0.9\{[1.8(TC_1 + TC_2 + \dots)] + [1.9(SE_1 + SE_2 + \dots)] + [9.0(WC_1 + WC_2 + \dots)] + [1.2(BC_1 + BC_2 + \dots)] +$$

$$[0.791(ST_1 + ST_2 + \dots)]\} \geq [ER_{TC1}(TC_1) + ER_{TC2}(TC_2) + \dots] + [ER_{SE1}(SE_1) + ER_{SE2}(SE_2) + \dots] + [ER_{WC1}(WC_1) + ER_{WC2}(WC_2) + \dots] + [ER_{BC1}(BC_1) + ER_{BC2}(BC_2) + \dots] + [ER_{ST1}(ST_1) + ER_{ST2}(ST_2) + \dots] \tag{2}$$

where:

- TC_i = kilograms of solids of topcoat “i” used;
- SE_i = kilograms of solids of sealer “i” used;
- WC_i = kilograms of solids of washcoat “i” used;
- BC_i = kilograms of solids of basecoat “i” used;
- ST_i = liters of stain “i” used;
- ER_{TCi} = VOC content of topcoat “i” in kg VOC/kg solids, as applied;
- ER_{SEi} = VOC content of sealer “i” in kg VOC/kg solids, as applied;
- ER_{WCi} = VOC content of washcoat “i” in kg VOC/kg solids, as applied;
- ER_{BCi} = VOC content of basecoat “i” in kg VOC/kg solids, as applied; and
- ER_{STi} = VOC content of stain “i” in kg VOC/liter (kg/l), as applied.

Note 1: Various numeric values used in inequalities (0.8, 1.8, 1.9, etc.) are maximum allowable VOC contents for various coatings.

Note 2: The 0.9 multiplying factor on the allowable emissions side of the inequality is used to assure that sources using the averaging approach demonstrate *[that]* their emissions are no greater than ninety percent (90%) of what they would be if they were using compliant coatings.

For Inequalities (1) and (2), the facility must use the actual VOC content of the finishing materials used prior to the effective date of this rule if the VOC content is less than the allowable VOC content. For example, if the affected source was using topcoats with a VOC content of 1.7 kilograms of VOC per kilogram of solids (1.7 pounds of VOC per pound of solids) before being subject to this rule, the affected source must use that value in Inequality (2) rather than 1.8.

3. As an alternate to the finishing operation requirements of subparagraph (3)(A)1.A. or part (3)(A)1.B.(II) of this rule, the owner or operator of an affected source may use a control system (**capture device/control device**) that will achieve an equivalent reduction in emissions as demonstrated using the compliance requirements of subparagraph (3)(C)1.B. of this rule.

4. As an alternate to the finishing operation requirements of paragraphs (3)(A)1. and (3)(A)2. of this rule, the owner or operator of an affected source may use a combination of the methods presented in paragraphs (3)(A)1., (3)(A)2., and (3)(A)3. of this rule as demonstrated using the compliance requirements of subparagraph (3)(C)1.C. of this rule.

5. The owner or operator of an affected source shall limit VOC emissions from cleaning operations when using a strippable booth coating. *The VOC contents shall be no more than] to that shown in Table 6.*

	kg VOC/kg solids (as applied)	lb VOC/lb solids (as applied)
Strippable booth coating	0.8	0.8

(B) Work Practice Standards. The owner or operator of an affected source shall develop and maintain work practice standards that

include, at a minimum:

1. A written work practice implementation plan that defines work practices for each wood furniture manufacturing operation and addresses each of the topics specified in paragraphs (3)(B)2. through (3)(B)10. of this subsection. The plan shall be developed no more than sixty (60) days after the compliance date of this rule. The owner or operator of the affected source shall comply with each provision of the work practice implementation plan. The written work practice implementation plan shall be available for inspection by the department, upon request. If the department determines that the work practice implementation plan does not adequately address each of the topics specified in paragraphs (3)(B)2. through (3)(B)10. of this subsection, the department may require the affected source to modify the plan;

2. Operator training for all new and existing personnel, including contract personnel, who are involved in finishing, cleaning, or washoff operations or implementation of the requirements of this rule. All new personnel, those hired after the effective date of the rule, shall be trained upon hiring. All existing personnel, those hired before the effective date of the rule, shall be trained within six (6) months of the effective date of the rule. All personnel shall be given refresher training annually. The affected source shall maintain a copy of the training program with the work practice implementation plan. The training program shall include, at a minimum, the following:

A. A list of all *[current]* trained personnel by name and job description *[that are required to be trained]*;

B. An outline of the subjects *[to be]* covered in the initial and refresher training for each position, or group of personnel;

C. Lesson plans for courses to be given at the initial and the annual refresher training that include, at a minimum, appropriate application techniques, appropriate cleaning and washoff procedures, appropriate equipment setup and adjustment to minimize finishing material usage and overspray, and appropriate management of cleanup wastes; and

D. A description of the methods to be used at the completion of initial or refresher training to demonstrate and document successful completion, and a record of the date each employee is trained;

3. *[A]* An equipment leak inspection and maintenance plan *[that shall be]* prepared and maintained with the work practice implementation plan and specify, at a minimum—

A. A minimum visual inspection frequency of once per month for all equipment used to transfer or apply finishing materials or organic solvents;

B. An inspection schedule;

C. Methods for documenting the date and results of each inspection and any repairs *[that were made]*;

D. The time frame between identifying *[a]* an equipment leak and making the repair, which adheres to the following schedule:

(I) A first attempt at repair (e.g., tightening of packing glands) shall be made no later than five (5) working days after the equipment leak is detected; and

(II) Final repairs shall be made within fifteen (15) working days, unless the leaking equipment is to be replaced by a new purchase, in which case repairs shall be completed within three (3) months;

4. A cleaning and washoff solvent accounting system that includes an organic solvent accounting form to record—

A. The quantity and type of organic solvent used each month for washoff and cleaning;

B. The number of pieces washed off with the reason for washoff; and

C. The net quantity of spent organic solvent generated from each activity. The net quantity of spent solvent is equivalent to the total amount of organic solvent that is generated from the activity minus any organic solvent that is recycled on-site for operations other than cleaning or washoff and any organic solvent *[that was sent]* disposed off-site;

5. Spray booth cleaning *[that shall]* not *[use]* using com-

pounds containing more than **eight** (8.0) percent by weight of VOC for cleaning spray booth components other than conveyors, continuous coaters and their enclosures, and/or metal filters, unless the spray booth is being refurbished. If the spray booth is being refurbished (that is, the spray booth coating or other material used to cover the booth is being replaced), the affected source shall use no more than **one** (1.0) gallon of organic solvent to prepare the booth prior to applying the booth coating;

6. Storage requirements to ensure that owners or operators of affected sources use normally closed containers for storing finishing, cleaning, and washoff materials;

7. Application equipment requirements to ensure owners or operators of affected sources do not use conventional air spray guns for applying finishing materials except for the following conditions:

A. When applying finishing materials that have a VOC content no greater than 1.0 kg VOC/kg solids (1.0 lb VOC/lb solids), as applied;

B. To touch-up and repair when—

(I) The finishing materials are applied after completion of the finishing operation; or

(II) The finishing materials are applied after the stain and before any other type of finishing material is applied, and the finishing materials are applied from a container that has a volume of no more than **two** (2.0) gallons;

C. When spray is automated (that is, the spray gun is aimed and triggered automatically, not manually);

D. When emissions from the finishing application station are directed to a control device;

E. When the conventional air **spray** gun is used to apply finishing materials and the cumulative total usage of that finishing material is no more than **five** (5.0) percent of the total gallons of finishing material used during that semiannual reporting period; or

F. When the conventional air **spray** gun is used to apply stain on a part for which it is technically or economically infeasible to use any other spray application technology. For this condition, the owner or operator of the affected source shall demonstrate why it is technically or economically infeasible by submitting to the department *[a videotape, a technical report or other]* documentation to support the affected source's claim. The support documentation shall include the following criteria, either independently or in combination:

(I) The production speed is too high or the part shape is too complex for one (1) operator to coat the part and the **finishing** application station is not large enough to accommodate an additional operator; or

(II) The excessively large vertical spray area of the part makes it difficult to avoid sagging or runs in the stain;

8. Line cleaning that pumps or drains all organic solvent used for line cleaning into a normally closed container;

9. Gun cleaning that collects all organic solvent used to clean spray guns into a normally closed container; and

10. Washoff operations that control emissions from washoff operations by—

A. Using normally closed tanks for washoff; and

B. Minimizing dripping by tilting or rotating the part to drain as much organic solvent as possible.

(C) Compliance Procedures and Monitoring Requirements.

1. The owner or operator of an affected source subject to the emission standards in subsection (3)(A) of this rule shall demonstrate compliance with those requirements by using one (1) of the following methods:

A. To demonstrate that each sealer, topcoat, and strippable booth coating meets the applicable requirements of paragraphs (3)(A)1. and (3)(A)5. of this rule, the owner or operator shall maintain certified product data sheets for each of these finishing materials. If solvent or other VOC is added to the finishing material before application, the owner or operator shall maintain documentation showing the VOC content of the finishing material as applied, in kg VOC/kg solids (lb VOC/lb solids); or

B. To demonstrate compliance through the use of a control system (**capture device/control device**) per paragraph (3)(A)3. of this rule, the owner or operator shall—

(I) Determine the overall control efficiency needed to demonstrate compliance using Equation (3) as follows;

$$R = [(C - E)/C] \times 100 \quad (3)$$

where:

R = the overall efficiency of the control system, expressed as a percentage;

C = the VOC content of a coating (C), in kilograms of VOC per kilogram of coating solids (kg VOC/kg solids), as applied. Also given in pounds of VOC per pound of coating solids (lb VOC/lb solids), as applied; and

E = the emission limit achieved by the affected emission point(s), in kg VOC/kg solids;

(II) Document that the value of C in Equation (3) is obtained from the VOC and solids content of the as-applied finishing material; and

(III) Calculate the overall efficiency of the control device, using the procedure in subsection (5)(D) of this rule, and demonstrate that the value of the overall efficiency of the control system, expressed as a percentage, is equal to or greater than the value of R calculated by Equation (3).; **or**

C. To demonstrate compliance through the use of a combination of the methods per paragraph (3)(A)4. of this rule, the owner or operator shall meet all individual compliance requirements for the applicable methods being combined.

2. Initial compliance.

A. The owner or operator of an affected source subject to a requirement of paragraph (3)(A)1. or (3)(A)5. of this rule that is complying through the method established in subparagraph (3)(C)1.A. of this rule, shall submit an initial compliance status report, as required by paragraph (4)(A)2. of this rule, stating that compliant sealers and/or topcoats and strippable booth coatings are being used by the affected source.

B. The owner or operator of an affected source subject to a requirement of paragraph (3)(A)1. of this rule that is complying through the method established in subparagraph (3)(C)1.A. of this rule and is applying sealers and/or topcoats using continuous coaters shall demonstrate initial compliance by—

(I) Submitting an initial compliance status report stating that compliant sealers and/or topcoats, as determined by the VOC content of the finishing material in the reservoir and the VOC content as calculated from records, are being used; or

(II) Submitting an initial compliance status report stating that compliant sealers and/or topcoats, as determined by the VOC content of the finishing material in the reservoir, are being used and the viscosity of the finishing material in the reservoir is being monitored. The affected source shall also provide data that demonstrates the correlation between the viscosity of the finishing material and the VOC content of the finishing material in the reservoir.

C. The owner or operator of an affected source demonstrating compliance with this rule through the use of a control system (capture device/control device) per paragraph (3)(A)3. and subparagraph (3)(C)1.B. of this rule, shall demonstrate initial compliance by—

(I) Submitting a monitoring plan that identifies the operating parameter to be monitored for the capture device and discusses why the parameter is appropriate for demonstrating ongoing compliance;

(II) Conducting an initial performance test using the procedures and test methods listed in subsections (5)(C) and (5)(D) of this rule (test methods in paragraphs (5)(C)3., (5)(C)4., and (5)(C)5. of this rule shall be performed, as applicable, at least twice during each test period);

(III) Calculating the overall control efficiency using the

procedure in subsection (5)(D) of this rule;

(IV) Determining those operating conditions critical to determining compliance and establishing operating parameters that will ensure compliance with the standard as follows:

(a) For compliance with a thermal incinerator, minimum combustion temperature shall be the operating parameter;

(b) For compliance with a catalytic incinerator equipped with a fixed catalyst bed, the minimum gas temperature both upstream and downstream of the catalyst bed shall be the operating parameter;

(c) For compliance with a catalytic incinerator equipped with a fluidized catalyst bed, the minimum gas temperature upstream of the catalyst bed and the pressure drop across the catalyst bed shall be the operating parameters; and

(d) For compliance with a carbon adsorber, the operating parameters shall be either the total regeneration mass stream flow for each regeneration cycle and the carbon bed temperature after each regeneration, or the concentration level of organic compounds exiting the adsorber, unless the owner or operator requests and receives approval from the director to establish other operating parameters; and

(V) The owner or operator of an affected source demonstrating compliance with this rule per subparagraph (3)(C)2.C. of this rule shall calculate the site-specific operating parameter value as the arithmetic average of the maximum or minimum operating parameter values, as appropriate, that demonstrate compliance with the standards, during the three (3) test runs required by paragraph (5)(C)1. of this rule.

D. The owner or operator of an affected source subject to the work practice standards in subsection (3)(B) of this rule shall submit an initial compliance status report, as required by paragraph (4)(A)3. of this rule, stating that the work practice implementation plan has been developed and procedures have been established for implementing the provisions of the plan.

(D) Special Requirements for Sources Using An Averaging Approach. The owner or operator of an affected source complying with the emission limitations in subsection (3)(A) of this rule through the procedures established in paragraph (3)(A)2. of this rule shall also meet the following requirements:

1. Program goals and rationale. The owner or operator of the affected source shall provide a summary of the reasons why the affected source would like to comply with the emission limitations through the procedures established in paragraph (3)(A)2. of this rule and a summary of how averaging can be used to meet the emission limitations. The affected source shall also document that the additional environmental benefit requirement is being met through the use of the inequalities in paragraph (3)(A)2. of this rule. These inequalities ensure that the affected source is achieving an additional ten percent (10%) reduction in emissions when compared to affected sources using a compliant coatings approach to meet the requirements of the rule./;

2. Program scope. The owner or operator of the affected source shall describe the types of finishing materials that will be included in the affected source's averaging program. Stains, basecoats, washcoats, sealers, and topcoats may all be used in the averaging program. Finishing materials [that are] applied using continuous coaters may only be used in an averaging program if the affected source can determine the amount of finishing material used each day./;

3. Program baseline. The baseline for each finishing material included in the averaging program shall be the lower of the actual or allowable emission rate as of the effective date of this rule./;

4. Quantification procedures. The owner or operator of the affected source shall specify methods and procedures for quantifying emissions. Quantification procedures for VOC content are included in section (5) of this rule. The owner or operator shall specify methods to be used for determining the usage of each finishing material. The quantification methods used shall be accurate enough to ensure that the affected source's actual emissions are less than the allowable

emissions, as calculated using Inequality (1) or (2) in paragraph (3)(A)2. of this rule, on a daily basis to a level of certainty comparable to that for traditional control strategies applicable to surface coating sources/./;

5. Monitoring, record keeping, and reporting. The owner or operator of an affected source shall provide a summary of the monitoring, record keeping, and reporting procedures that will be used to demonstrate daily compliance with the inequalities presented in paragraph (3)(A)2. of *[the]* this rule. The monitoring, record keeping, and reporting procedures shall be structured in such a way that inspectors and facility owners can determine an affected source's compliance status for any day. Furthermore, the procedures shall include methods for determining required data when monitoring, record keeping, and reporting violations result in missing, inadequate, or erroneous monitoring and record keeping. These procedures must ensure that sources have sufficiently strong incentive to properly perform monitoring and record keeping/./;

6. Implementation schedule. The owner or operator of an affected source shall submit an averaging proposal for state and EPA approval by July 31, 2001/./; and

7. Administrative procedures. Any affected source may submit an averaging approach proposal to the director for consideration in meeting the compliance requirements of this rule. The director shall take the following actions:

A. Determine whether or not the proposal submittal is complete and notify the submitter of the completeness status within thirty (30) calendar days of receipt of the proposal; and

B. Approve or disapprove the proposal within thirty (30) calendar days of determining that a proposal submittal is complete.

(4) Reporting and Record Keeping.

(A) Reporting Requirements.

1. The owner or operator of an affected source using a control system to *[fulfill the requirements of]* **comply with** this rule *[are]* required to submit a written report of the *[performance test]* results *[for]* **from** the performance test*[, required by part]* in (3)(C)2.C.(II) of this rule*[,]* to the director within sixty (60) calendar days of completion of the performance test.

2. The owner or operator of an affected source subject to this rule shall submit an initial compliance report *[no later than]* **within** sixty (60) calendar days after the compliance date. The report shall include the items required *[by]* in paragraph (3)(C)2. of this rule.

3. The owner or operator of an affected source subject to this rule and demonstrating compliance in accordance with subparagraph (3)(C)1.A. or (3)(C)1.B. of this rule shall submit a semiannual report covering the previous six (6) months of wood furniture manufacturing operations according to the following schedule:

A. The first report shall be submitted thirty (30) calendar days after the end of the first six (6)-month period following the compliance date;

B. Subsequent reports shall be submitted within thirty (30) calendar days after the end of each six (6)-month period following the first report; and

C. Each semiannual report shall include a statement of whether the affected source was in compliance or noncompliance, and, if the affected source was in noncompliance, the measures taken to bring the affected source into compliance.

(B) Record Keeping Requirements.

1. The owner or operator of an affected source subject to the emission standards in subsection (3)(A) of this rule shall maintain records of the following:

A. A certified product data sheet for each finishing material and strippable booth coating subject to the emission limits in subsection (3)(A) of this rule; and

B. The VOC content, kg VOC/kg solids (lb VOC/lb solids), as applied, of each finishing material and strippable booth coating subject to the emission limits in subsection (3)(A) of this rule, and copies of data sheets documenting how the as-applied values were

determined.

2. The owner or operator of an affected source following the compliance method of subparagraph (3)(C)1.B. of this rule shall maintain the following records:

A. Copies of the calculations to support the equivalency of using a control system, as well as the data *[that are]* necessary to support the calculation of E in Equation (3) and the calculation of overall efficiency for a control system for subsection (5)(D) of this rule;

B. Records of the daily average value of each continuously monitored parameter for each operating day. If all recorded values for a monitored parameter are within the range established during the initial performance test, the owner or operator may record that all values were within the range rather than calculating and recording an average for that day; and

C. Records of the pressure drop across the catalyst bed for facilities complying with the emission limitations using a catalytic incinerator with a fluidized catalyst bed.

3. The owner or operator of an affected source subject to the work practice standards in subsection (3)(B) of this rule shall maintain, on-site, the work practice implementation plan and all records associated with fulfilling the requirements of that plan, including, but not limited to:

A. Records demonstrating that the operator training program is in place;

B. Records maintained in accordance with the inspection and maintenance plan;

C. Records associated with the cleaning solvent accounting system;

D. Records associated with the limitation on the use of conventional air spray guns showing total finishing material usage and the percentage of finishing materials applied with conventional air spray guns for each semiannual reporting period;

E. Records showing the VOC content of compounds used for cleaning booth components, except for solvent used to clean conveyors, continuous coaters and their enclosures, and/or metal filters; and

F. Copies of logs and other documentation developed to demonstrate that the other provisions of the work practice implementation plan are followed.

4. In addition to the records required by paragraph (4)(B)1. of this rule, the owner or operator of an affected source that complies through the method established in subparagraph (3)(C)1.A. or by demonstrating compliance with subsection (3)(A) of this rule shall maintain a copy of the compliance certifications submitted in accordance with paragraph (4)(A)3. of this rule for each semiannual period following the compliance date.

5. The owner or operator of an affected source shall maintain a copy of all other information submitted with the initial status report required by paragraph (4)(A)2. of this rule and the semiannual reports required by paragraph (4)(A)3. of this rule.

6. The owner or operator of an affected source shall maintain all records for a minimum of five (5) years.

7. Failure to maintain the records required by paragraphs (4)(B)1. through (4)(B)6. of this rule *[shall]* constitutes a violation of the rule for each day records are not maintained.

(5) Test Methods.

(A) The VOC content and the solids content by weight of the as-supplied finishing materials shall be determined by *[10 CSR 10-6.030(14)(C), Reference] Method 24—Determination of Volatile Matter Content, Water Content, Density, Volume, Solids and Weight Solids of Surface Coatings* as specified in **10 CSR 10-6.030(22)**. The owner or operator of the affected source may request approval from the director to use an alternative or equivalent method for determining the VOC content of the finishing material.

(C) Owners or operators using a control system *[shall]* **have to** demonstrate initial compliance using the *[procedures in paragraphs*

(5)(C)1. through (5)(C)5. of this rule] following 40 CFR 60 methods as incorporated by reference in 10 CSR 10-6.030(22).

1. The VOC concentration of gaseous air streams shall be determined with a test consisting of three (3) separate runs, each lasting a minimum of thirty (30) minutes using one (1) of the following reference methods [as specified by 40 CFR 60, Appendix A—Reference Methods]:

A. [Method 18—Measurement of Gaseous Organic Compound Emissions by Gas Chromatography] **Method 18**;

B. [10 CSR 10-6.030(14)(A), Reference] Method 25[—Determination of Total Gaseous Nonmethane Organic Emissions as Carbon]; or

C. [Method 25A—Determination of Total Gaseous Organic Concentration Using Flame Ionization Analyzer] **Method 25A**.

2. Sample and velocity traverses shall be determined by using one (1) of the following reference methods [as specified by 40 CFR 60, Appendix A—Reference Methods]:

A. [10 CSR 10-6.030(1), Reference] Method 1[—Sample and Velocity Traverses for Stationary Sources]; or

B. [Method 1A—Sample and Velocity Traverses for Stationary Sources with Small Stacks or Ducts] **Method 1A**.

3. Velocity and volumetric flow rates shall be determined by using one (1) of the following reference methods [as specified by 40 CFR 60, Appendix A—Reference Methods]:

A. [10 CSR 10-6.030(2), Reference] Method 2[—Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)]; or

B. [Method 2A—Direct Measurement of Gas Volume Through Pipes and Small Ducts] **Method 2A**;

C. [Method 2C—Determination of Stack Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)] **Method 2C**;

D. [Method 2D—Measurement of Gas Volumetric Flow Rates in Small Pipes and Ducts] **Method 2D**;

E. [Method 2F—Determination of Stack Gas Velocity and Volumetric Flow Rate With Three-Dimensional Probes] **Method 2F**;

F. [Method 2G—Determination of Stack Gas Velocity and Volumetric Flow Rate With Two-Dimensional Probes] **Method 2G**; or

G. [Method 2H—Determination of Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Wall] **Method 2H**.

4. To analyze the exhaust gases, use [10 CSR 10-6.030(3), Reference] Method 3[—Gas Analysis for Carbon Dioxide, Oxygen, Excess Air and Dry Molecular Weight].

5. To measure the moisture in the stack gas, use [10 CSR 10-6.030(4), Reference] Method 4[—Determination of Moisture Content in Stack Gases].

AUTHORITY: section 643.050, RSMo [Supp. 1998] 2016. Original rule filed July 15, 1999, effective Feb. 29, 2000. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri.

Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution
Control Rules Specific to the St. Louis Metropolitan
Area

PROPOSED AMENDMENT

10 CSR 10-5.540 Control of Emissions From Batch Process Operations. The commission proposes to amend subsections (1)(A)–(1)(E), (4)(A), (4)(C), (5)(A), (5)(C), and (5)(F)–(5)(H), and section (3); renumber existing subsection (2)(J) to (2)(K); renumber and amend existing subsections (4)(G)–(4)(I); add new subsection (2)(J); and delete subsections (2)(K) and (4)(F). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule limits the volatile organic compound (VOC) emissions from batch process operations by incorporating reasonably available control technology (RACT) as required by the Clean Air Act Amendments (CAA) of 1990. The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words, clarify rule language, update incorporations by reference, and add definitions specific to this rule. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

(1) Applicability.

(A) This rule [shall apply] applies throughout the City of St. Louis and St. Charles, St. Louis, Jefferson, and Franklin Counties.

(B) This rule [is applicable] applies to all batch process operations that have the potential to emit [equal to or greater than] one hundred (100) tons or more per year of volatile organic compounds (VOC) at [sources] facilities identified by any of the following four (4)-digit standard industrial classification (SIC) codes, as defined in the 1987 edition of the *Federal Standard Industrial Classification Manual*: SIC 2821, 2833, 2834, 2861, 2865, 2869, and 2879., which is hereby incorporated by reference in this rule, as published by the Executive Office of the President, Office of Management and Budget. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions:

1. SIC 2821 *Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers*;
2. SIC 2833 *Medicinal Chemicals and Botanical Products*;
3. SIC 2834 *Pharmaceutical Preparations*;
4. SIC 2861 *Gum and Wood Chemicals*;
5. SIC 2865 *Cyclic Organic Crudes and Intermediates, and*

Organic Dyes and Pigments;

6. SIC 2869 Industrial Organic Chemicals, Not Elsewhere Classified; or

7. SIC 2879 Pesticides and Agricultural Chemicals, Not Elsewhere Classified.

(C) The following single unit operations and batch process trains are *[subject to this rule but are considered to be de minimis and are, therefore,]* exempt from the control requirements of section (3) of this rule. However, the record keeping and reporting requirements in section (4) of this rule shall apply to such *[de minimis]* single unit operations and batch process trains:

1. Within a batch process operation, any single unit operation with uncontrolled total annual mass emissions of less than or equal to five hundred (500) pounds per year (lb/yr) of VOC. *[Such]* These single unit operations are also excluded from the calculation of the total annual mass emissions for a batch process train. If the uncontrolled total annual mass emissions from *[such]* an exempt single unit operation exceed five hundred (500) lb/yr of VOC in any subsequent year, the *[source] owner or operator* shall calculate applicability in accordance with subsection (1)(E) of this rule for both the individual single unit operation and the batch process train containing the single unit operation; and

2. Any batch process train containing process vents that have, in the aggregate, uncontrolled total annual mass emissions, as determined in accordance with paragraph *[(3)(E)1.] (3)(D)1.* of this rule, of less than thirty thousand (30,000) lb/yr of VOC for all products manufactured in *[such]* that batch process train.

(D) The applicability equations in subsection (1)(E) of this rule, which require the calculation of uncontrolled total annual mass emissions and flow rate value, shall be used to determine whether a single unit operation or a batch process train is subject to the control requirements in section (3) of this rule. The applicability equations *[shall be applied] apply* to the following:

1. Any single unit operation with uncontrolled total annual mass emissions that exceed five hundred (500) lb/yr of VOC and *[with]* a VOC concentration greater than five hundred (500) parts per million by volume (ppmv). In this individual determination, *[no]* the applicability analysis *[shall] should not* be performed for any single unit operation with a VOC concentration *[of]* less than or equal to five hundred (500) ppmv; and

2. Any batch process train containing process vents which, in the aggregate, have uncontrolled total annual mass emissions of thirty thousand (30,000) lb/yr or more of VOC from all products manufactured in the batch process train. Any single unit operation with uncontrolled total annual mass emissions exceeding five hundred (500) lb/yr, regardless of VOC concentration, shall be included in the aggregate applicability analysis.

(E) Applicability Equations. The applicability equations in this rule subsection are specific to volatility.

1. Weighted average volatility (WAV) shall be calculated as follows:

$$WAV = \frac{\sum_{i=1}^n \frac{[(VP_i) \times (MVOC_i)]}{[(MWVOC_i)]}}{\sum_{i=1}^n \frac{[(MVOC_i)]}{[(MWVOC_i)]}}$$

where:

- WAV = weighted average volatility;
- MVOC_i = mass of VOC component i;
- MWVOC_i = molecular weight of VOC component i; and
- VP_i = vapor pressure of VOC component i.

2. For purposes of determining applicability, flow rate values shall be calculated as follows:

A. For *[L]low* WAV has a vapor pressure less than or equal to seventy-five (75) millimeters of Mercury (mmHg) at twenty degrees Celsius (20 °C), and shall use the following equation:

$$FR = [0.07 (UTAME)] - 1,821$$

Where:

- FR = Vent stream flow rate, expressed as standard cubic feet per minute (scfm);
- UTAME = Uncontrolled total annual mass emissions of VOC, expressed as lb/yr;

B. Moderate WAV has a vapor pressure greater than seventy-five (75) mmHg but less than or equal to one hundred fifty (150) mmHg at twenty degrees Celsius (20 °C), and shall use the following equation:

$$FR = [0.031 (UTAME)] - 494$$

C. High WAV has a vapor pressure greater than one hundred fifty (150) mmHg at twenty degrees Celsius (20 °C), and shall use the following equation:

$$FR = [0.013 (UTAME)] - 301$$

3. To determine the vapor pressure of VOC, the applicable methods and procedures in section (5) of this rule shall apply.

(2) Definitions.

(J) Volatile organic compound (VOC)—The definition for this term can be found in 10 CSR 10-6.020.

*[(J)](K) Volatility—*For purposes of this rule, low volatility materials are defined as those which have a vapor pressure less than or equal to seventy-five (75) mmHg at twenty degrees Celsius (20 °C), moderate volatility materials have a vapor pressure greater than seventy-five (75) and less than or equal to one hundred fifty (150) mmHg at twenty degrees Celsius (20 °C), and high volatility materials have a vapor pressure greater than one hundred fifty (150) mmHg at twenty degrees Celsius (20 °C). To evaluate VOC volatility for single unit operations that service numerous VOCs or for processes handling multiple VOCs, the weighted average volatility can be calculated from knowing the total amount of each VOC used in a year, and the individual component vapor pressure, per the equation in paragraph (1)(E)1. of this rule.

[(K) Definitions of certain terms, other than those specified in this rule, may be found in 10 CSR 10-6.020.]

(3) General Provisions.

(A) Every owner or operator of a single unit operation with an average flow rate, as determined in accordance with paragraph *[(3)(E)2.] (3)(D)2.* of this rule, below the flow rate value calculated by the applicability equations contained in subsection (1)(E) of this rule, shall reduce uncontrolled VOC emissions from *[such]* that single unit operation by an overall efficiency, on an annual average, of at least ninety percent (90%), or twenty (20) ppmv, per batch cycle.

(B) Every owner or operator of a batch process train with an average flow rate, as determined in accordance with subparagraph *[(3)(E)2.B.] (3)(D)2.B.* of this rule, below the flow rate value calculated by the applicability equations contained in subsection (1)(E) of this rule, shall reduce uncontrolled VOC emissions from *[such]* that batch process train by an overall efficiency, on an annual average, of at least ninety percent (90%), or twenty (20) ppmv, per batch cycle. *[For purposes of demonstrating compliance with the emission limitations in this rule section, a]Any control device meeting the criteria in subsection *[(3)(D)] (3)(C)* of this rule *[shall be deemed to achieve] is presumed to have* a control efficiency of ninety percent (90%), or twenty (20) ppmv, per batch cycle, as applicable.*

[(C) Notwithstanding subsection (3)(A) or (3)(B) of this rule, any source that has installed on or before December 15, 1999, any control device which is demonstrated to the department's satisfaction to be unable to meet the applicable control requirements of this rule section, a scrubber, or shell and tube condenser using a non-refrigerated cooling media, and such device achieves at least eighty-one percent (81%) control efficiency of VOC emissions, is required to meet the ninety percent (90%) emission limitation or twenty (20) ppmv VOC concentration in subsection (3)(A) or (3)(B) of this rule, as applicable, upon the earlier to occur of the date the device is replaced for any reason, including, but not limited to, normal maintenance, malfunction, accident, and obsolescence, or May 1, 2002. Control devices installed on or before December 15, 1999, that do not achieve at least eighty-one percent (81%) control efficiency of VOC emissions shall comply with the control requirements of subsection (3)(A) or (3)(B) on or before May 1, 2001. A scrubber, shell and tube condenser using a non-refrigerated cooling media, or other control device meeting the criteria of this rule subsection, is considered replaced when—

1. The entire device is replaced; or
2. When either the cost to repair the device or the cost to replace part of the device exceeds fifty percent (50%) of the cost of replacing the entire device with a control device that complies with the ninety percent (90%) emission limitation or twenty (20) ppmv VOC concentration level in subsection (3)(A) of this rule, as applicable.]

[(D)](C) Control Equipment Specifications.

1. If a boiler or process heater is used to comply with this rule section, the vent stream shall be introduced into the flame zone of the boiler or process heater. The boiler or process heater shall meet the control device requirements for boilers and process heaters included in 40 CFR 60.703, 60.704, and 60.705, as specified in **10 CSR 10-6.030(22)**.

2. If a flare is used to comply with this rule section, it shall comply with the requirements of 40 CFR 60.18, [which are hereby incorporated by reference] as specified in **10 CSR 10-6.030(22)**. [The flare operation requirements of 40 CFR 60.18 do not apply i]If a process[,] not subject to this rule[,] vents an emergency relief discharge into a common flare header and causes the flare servicing the process subject to this rule to [not comply with one or more] violate any of the provisions of 40 CFR 60.18, the flare will be temporarily exempt from those provisions. This exemption from flare specification requirements is [a temporary exemption lasting] only [for the period of time] valid during the emergency relief venting discharge.

3. If an afterburner, scrubber, absorber, condenser, or adsorber is used to comply with this rule section, [such] those equipment shall meet the control device requirements [for this equipment] included in 40 CFR 60.703, 60.704, and 60.705, as specified in **10 CSR 10-6.030(22)**.

4. If an incinerator is used to comply with this rule section, the incinerator shall meet the control device requirements for incinerators included in 40 CFR 60.703, 60.704, and 60.705, as specified in **10 CSR 10-6.030(22)**.

[(E)](D) Determination of uncontrolled total annual mass emissions and actual weighted average flow rate values for batch process operations.

1. Uncontrolled total annual mass emissions shall be determined by the following methods:

A. Direct process vent emissions measurements taken prior to any release to the atmosphere, following any recovery device and prior to any control device, provided [such] these measurements conform with the requirements of measuring the mass flow rate of VOC incoming to the control device as in paragraph (5)(F)2. and subparagraphs (5)(F)3.A. and (5)(F)3.B. of this rule; or

B. Engineering estimates of the uncontrolled VOC emissions

from a process vent or process vents, in the aggregate, within a batch process train, using either the potential or permitted number of batch cycles per year or total production as represented in the source's operating permit.

(I) Engineering estimates of the uncontrolled VOC emissions shall be based upon accepted chemical engineering principles, measurable process parameters, or physical or chemical laws and their properties. Examples of methods include, but are not limited to, the following:

- (a) Use of material balances based on process stoichiometry to estimate maximum VOC concentrations;
- (b) Estimation of maximum flow rate based on physical equipment design such as pump or blower capacities; and
- (c) Estimation of VOC concentrations based on saturation conditions.

(II) All data, assumptions, and procedures used in any engineering estimate shall be documented.

2. Average flow rate shall be determined by any of the following methods:

A. Direct process vent flow rate measurements taken prior to any release to the atmosphere, following any recovery device and prior to any control device, provided such measurements conform with the requirements of measuring incoming volumetric flow rate in paragraph (5)(F)2. of this rule;

B. Average flow rate for a single unit operation having multiple emission events or batch process trains shall be the weighted average flow rate, calculated as follows:

$$WAF = \frac{\sum_{i=1}^n (AFR_i \times ADE_i)}{\sum_{i=1}^n (ADE_i)}$$

where:

- WAF = Actual weighted average flow rate for a single unit operation or batch process train;
- AFR_i = Average flow rate per emission event;
- ADE_i = Annual duration of emission event; and
- n = Number of emission events.

For purposes of this formula, the term "emission event" shall be defined as a discrete period of venting that is associated with a single unit operation. For example, a displacement of vapor resulting from the charging of a single unit operation with VOC will result in a discrete emission event that will last through the duration of the charge and will have an average flow rate equal to the rate of the charge. The expulsion of expanded vapor space when the single unit operation is heated is also an emission event. Both of these examples of emission events and others may occur in the same single unit operation during the course of the batch cycle. If the flow rate measurement for any emission event is zero, according to paragraph (5)(F)2. of this rule, then such event is not an emission event for purposes of this rule section; or

C. Engineering estimates calculated in accordance with the requirements in subparagraph (3)(E)1.B. of this rule.

3. For purposes of determining the average flow rate for steam vacuuming systems, the steam flow shall be included in the average flow rate calculation.

4. In cases where two (2) or more single unit operations share a process vent and where flow measurement for such single unit operations is difficult, alternate methods of flow measurement may be used only when approved by the department.

(4) Reporting and Record Keeping.

(A) Every owner or operator of a [de minimis] single unit operation or batch process train exempt under paragraph (1)(C)1. or

(1)(C)2. of this rule shall keep records of the uncontrolled total annual mass emissions *[for any de minimis single unit operation or batch process train, as applicable,]* and documentation verifying these values or measurements. The documentation shall include the engineering calculations, any measurements made in accordance with section (5) of this rule, and the potential or permitted number of batch cycles per year, or, in the alternative, total production as represented in the *[source's]* facility's operating permit.

(C) Every owner or operator of a batch process operation subject to the control requirements of section (3) of this rule shall keep records of the following parameters required to be monitored under subsection *[(4)(I)]* **(4)(H)** of this rule:

1. If using a thermal or catalytic afterburner to comply with section (3) of this rule, records indicating the average combustion chamber temperature of the afterburner or the average temperature upstream and downstream of the catalyst bed for a catalytic afterburner, measured continuously and averaged over the same time period as the performance test;

2. If using a flare to comply with section (3) of this rule, continuous records of the flare pilot flame monitoring and records of all periods of operations during which the pilot flame is absent; or

3. If using any of the following as a control device, the following records:

A. Where a scrubber is used, the exit specific gravity or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the department, and the average exit temperature of the absorbing liquid, measured continuously and averaged over the same time period as the performance test both measured while the vent stream is routed normally;

B. Where a condenser is used, the average exit or product side temperature measured continuously and averaged over the same time period as the performance test while the vent stream is routed normally;

C. Where a carbon adsorber is used, the total steam mass flow measured continuously and averaged over the same time period as the performance test full carbon bed cycle, temperature of the carbon bed after regeneration and within fifteen (15) minutes after completion of any cooling cycle(s), and duration of the carbon bed steaming cycle all measured while the vent stream is routed normally; or

D. As an alternative to subparagraphs (4)(C)3.A., (4)(C)3.B. or (4)(C)3.C. of this rule, at a minimum, records indicating the concentration level or reading indicated by the VOC monitoring device at the outlet of the scrubber, condenser or carbon adsorber, measured continuously and averaged over the same time period as the performance test while the vent stream is routed normally.

[(F) Notwithstanding subsections (4)(A) through (4)(E) of this rule, any owner or operator of a batch process operation which uses either a scrubber, shell and tube condenser using nonrefrigerated cooling media, or other control device meeting the criteria of subsection (3)(D) of this rule, is required to monitor compliance with the requirements on and after the earlier to occur of the date such device is replaced for any reason or May 1, 2002.]

[(G)](F) The owner or operator of a *[de minimis]* single unit operation or batch process train exempt from the control requirements of section (3) of this rule shall notify the department in writing if the uncontrolled total annual mass emissions *[from such de minimis single unit operation or batch process train]* exceed the threshold in paragraph (1)(C)1. or (1)(C)2. of this rule, respectively, within sixty (60) days after the event occurs. *[Such]* This notification shall include a copy of all records of *[such]* the event.

[(H)](G) *[Every owner or operator of a batch process operation]* All records required *[to keep records]* under this rule section shall be maintained *[such records]* on-site for at least five (5) years and *[shall make all such records]* made available to the department immediately upon request.

[(I)](H) Monitoring Requirements.

1. Every owner or operator using an afterburner to comply with

section (3) of this rule shall install, calibrate, maintain, and operate, according to manufacturer's specifications, temperature monitoring devices with an accuracy of plus or minus one percent ($\pm 1\%$) of the temperature being measured expressed in degrees Celsius, equipped with continuous recorders.

A. Where a catalytic afterburner is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

B. Where an afterburner other than a catalytic afterburner is used, a temperature monitoring device shall be installed in the combustion chamber.

2. Every owner or operator using a flare to comply with section (3) of this rule, shall install, calibrate, maintain, and operate, according to manufacturer's specifications, a heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light to indicate continuous presence of a flame.

3. Every owner or operator using a scrubber to comply with section (3) of this rule shall install, calibrate, maintain, and operate, according to manufacturer's specifications, the following:

A. A temperature monitoring device for scrubbant liquid having an accuracy of plus or minus one percent ($\pm 1\%$) of the temperature being monitored expressed in degrees Celsius and a specific gravity device for scrubbant liquid, each equipped with a continuous recorder; or

B. A VOC monitoring device used to indicate the concentration of VOC exiting the control device based on a detection principle such as infrared, photoionization, or thermal conductivity, each equipped with a continuous recorder.

4. Every owner or operator using a condenser to comply with section (3) of this rule shall install, calibrate, maintain, and operate, according to manufacturer's specifications, the following:

A. A condenser exit temperature monitoring device equipped with a continuous recorder and having an accuracy of plus or minus one percent ($\pm 1\%$) of the temperature being monitored expressed in degrees Celsius; or

B. A VOC monitoring device used to indicate the concentration of VOC such as infrared, photoionization, or thermal conductivity, each equipped with a continuous recorder.

5. Every owner or operator using a carbon adsorber to comply with this rule shall install, calibrate, maintain, and operate, according to the manufacturer's specifications, the following equipment:

A. An integrating regeneration stream flow monitoring device having an accuracy of plus or minus ten percent ($\pm 10\%$), and a carbon bed temperature monitoring device having an accuracy of plus or minus one percent ($\pm 1\%$) of the temperature being monitored expressed in degrees Celsius, both equipped with a continuous recorder; or

B. A VOC monitoring device used to indicate the concentration level of VOC exiting *[such]* the device based on a detection principle such as infrared, photoionization, or thermal conductivity, each equipped with a continuous recorder.

6. Every owner or operator using a boiler or process heater with a design heat input capacity less than forty-four (44) megawatts to comply with section (3) of this rule shall install, calibrate, maintain, and operate, according to the manufacturer's specifications, a temperature monitoring device in the firebox with an accuracy of plus or minus one percent ($\pm 1\%$) of the temperature being measured expressed in degrees Celsius, equipped with a continuous recorder. Any boiler or process heater in which all process vent streams are introduced with primary fuel is exempt from this requirement.

7. The owner or operator of a process vent shall be permitted to monitor by an alternative method or may monitor parameters other than those listed in paragraphs (4)(I)1. through (4)(I)6. of this rule, if approved by the department. *[Such]* The alternative method or parameters shall be contained in the source's operating permit as federally enforceable permit conditions.

[(8) Notwithstanding paragraphs (4)(I)1. through (4)(I)7. of this rule, sources using a scrubber, shell and tube condenser

using a nonrefrigerated cooling media, or other control device meeting the criteria of subsection (3)(D) of this rule, are required to monitor compliance with the requirements of this rule on and after the earlier to occur of the date such device is replaced for any reason or May 1, 2002.]

(5) Test Methods.

(A) Upon the department's request, the owner or operator of a batch process operation shall conduct testing to demonstrate compliance with section (3) of this rule. The owner or operator shall, at its own expense, conduct *[such]* these tests in accordance with the applicable test methods and procedures specified in subsections (5)(D), (5)(E), and (5)(F) of this rule.

(C) When a flare is used to comply with the control requirements of section (3) of this rule, the flare shall comply with the requirements of 40 CFR 60.18, as specified in 10 CSR 10-6.030(22).

(F) The following methods in 40 CFR 60, Appendix A, *[which are hereby incorporated by reference]* as specified in 10 CSR 10-6.030(22), shall be used to demonstrate compliance with the reduction efficiency requirement in section (3) of this rule:

1. Method 1 or 1A, as appropriate, for selection of the sampling sites if the flow measuring device is not a rotameter. The control device inlet sampling site for determination of vent stream VOC composition reduction efficiency shall be prior to the control device and after the control device;

2. Method 2, 2A, 2C, 2D, 2F, 2G or 2H as appropriate, for determination of gas stream volumetric flow rate flow measurements, which shall be taken continuously. No traverse is necessary when the flow measuring device is an ultrasonic probe; and

3. Method 25A or Method 18, if applicable, to determine the concentration of VOC in the control device inlet and outlet, where—

A. The sampling time for each run shall be as follows:

(I) For batch cycles less than eight (8) hours in length, appropriate operating parameters shall be recorded at a minimum of fifteen (15)-minute intervals during the batched period;

(II) For batch cycles of eight (8) hours and greater in length, the owner or operator may either test in accordance with the test procedures defined in part (5)(F)3.A.(I) of this rule or the owner or operator may elect to perform tests, pursuant to either Method 25A or Method 18, only during those portions of each emission event which profiles a representative sample occurring within the batch cycle. For each emission event of less than four (4) hours in duration, the owner or operator shall test continuously over the entire emission event as in part (5)(F)3.A.(I) of this rule. For each emission event of greater than four (4) hours in duration, the owner or operator shall elect either to perform a minimum of three (3) one-hour test runs during the emission event or shall test continuously over the entire emission event within each single unit operation in the batch process train. The owner or operator shall define the total batch process by all its intrinsic emission events. To demonstrate that the portion of the emission event to be tested profiles a representative sample occurring within the batch cycle, the owner or operator electing to rely on this option shall develop an emission profile for each entire emission event. *[Such]* These emission profiles shall be based upon either process knowledge or test data collected. Examples of information that could constitute process knowledge include, but are not limited to, calculations based on material balances, duration, emission levels, constituents, reactants, byproducts, and process stoichiometry. Previous test results may be used provided *[such]* the results are still relevant to the current process vent stream conditions; or

(III) For purposes of paragraph (5)(F)3. of this rule, the term "emission event" *[shall be defined as]* means a discrete period of venting that is associated with a single unit operation. For example, a displacement of vapor resulting from the charging of a single unit operation with VOC will result in a discrete emission

event that will last through the duration of the charge and will have an average flow rate equal to the rate of the charge. The expulsion of expanded single unit operation vapor space when the vessel is heated is also an emission event. Both of these examples of emission events and others may occur in the same single unit operation during the course of the batch cycle. If the flow rate measurement for any emission event is zero (0), in accordance with paragraph (5)(F)2. of this rule, then *[such]* this event is not an emission event for purposes of this rule section;

B. Calculate the mass emission rate (MER_i) into the control device as follows:

$$MER_i = C_i Q_i$$

where:

C_i = concentration into the control device; and

Q_i = flow rate into the control device;

C. Calculate the mass emission rate (MER_o) out of the control device as follows:

$$MER_o = C_o Q_o$$

where:

C_o = concentration out of the control device; and

Q_o = flow rate out of the control device; and

D. Calculate the total overall control device efficiency (η) as follows:

$$\eta = (MER_i - MER_o) / MER_i$$

(G) Upon request by the department to conduct testing, an owner or operator of a batch process operation which has installed a scrubber, a shell and tube condenser using a nonrefrigerated cooling media, or any other control device which meets the criteria of subsection *[(3)(D)] (3)(C)* of this rule, shall demonstrate that *[such]* the device achieves the control efficiency applicable within section (3) of this rule *[upon the earlier to occur of the date the device is replaced or May 1, 2002]*.

(H) The owner or operator of a batch process operation may propose an alternative test method or procedures to demonstrate compliance with the control requirements in section (3) of this rule. *[Such]* Alternative methods or procedures *[shall be]* may only be used after they are approved by the department.

AUTHORITY: section 643.050, RSMo [Supp. 1998] 2016. Original rule filed July 15, 1999, effective Feb. 29, 2000. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.070 New Source Performance Regulations. The commission proposes to amend the rule purpose and sections (1) through (5). If the commission adopts this rule action, the department intends to advise the U.S. Environmental Protection Agency that we will accept delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words. This amendment also incorporates by reference new emission standards, updates, and clarifications to federal rule 40 CFR 60 that were promulgated from January 1, 2013 through March 12, 2018. It also clarifies the rule purpose, removes unnecessary rule language, clarifies much of the remaining rule language, presents the list of incorporated federal subparts in a more user-friendly format, and makes other clarifying changes. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is the Title V Operating Permit Program requirements, 40 CFR 70, State/EPA Workplan, and Executive Order 17-03.

PURPOSE: [This rule establishes acceptable design and performance criteria for specified new or modified emission sources.] This rule incorporates by reference the new source performance standards in 40 CFR 60. This provides the Missouri Department of Natural Resources the authority to implement and enforce these U.S. Environmental Protection Agency regulations.

(1) Applicability. This rule applies to sources subject to 40 CFR 60 subparts incorporated by reference in subsection (3)(A) of this rule.

[(A) The provisions of 40 CFR 60 promulgated as of June 30, 2012, and Federal Register Notices 77 FR 48433, 77 FR 49490, and 77 FR 56422 promulgated from July 1, 2012, through December 31, 2012, shall apply and are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

(B) Exceptions to subsection (1)(A) of this rule are as follows:

- 1. Sections 60.4, 60.9, and 60.10 of subpart A;*
- 2. Subpart B in its entirety;*
- 3. Those provisions which are not delegable by the United States Environmental Protection Agency (EPA); and*
- 4. Incinerators which are subject to Hazardous Waste Management Commission rule 40 CFR 264, subpart O, as incorporated in 10 CSR 25-7.264, shall not be subjected to the requirements of this rule. The exemptions granted under 40 CFR 264.340(b), as incorporated in 10 CSR 25-7.264, are subject to this rule. All other applicable requirements of this chapter shall remain in effect as to the incinerators.*

(C) In addition to complying with the provisions of this rule, affected sources may be required to obtain an operating

permit pursuant to Title V of the Clean Air Act Amendments or 10 CSR 10-6.065.

(D) Where emission limitations, test procedure, or other requirements found in both subsection (1)(A) of this rule and in another rule under Title 10 Division 10 of the Code of State Regulations are applicable to an emission source, the more restrictive rule requirement shall be applied.]

(2) Definitions. Certain terms used in 40 CFR [part] 60 refer to federal officers, agencies, and publications. The following terms are substituted when applicable to Missouri [shall be substituted] where appropriate for the [delegable] federal counterparts:

(A) Director [shall be] is substituted for Administrator;

(B) Missouri Department of Natural Resources [shall be] is substituted for EPA, EPA Regional Office, or Environmental Protection Agency; and

(C) Missouri Register [shall be] is substituted for Federal Register.

(3) General Provisions. [The following New Source Performance Standards (NSPS) 40 CFR part 60 subparts adopted by reference in subsection (1)(A) of this rule are listed below by individual source operations or installations in these categories and subject to this rule as specified in the applicable subpart:

Subpart Title

(D) Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971

(Da) Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978

(Db) Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

(Dc) Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units

(E) Standards of Performance for Incinerators

(Ea) Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994

(Eb) Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996

(Ec) Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996

(F) Standards of Performance for Portland Cement Plants

(G) Standards of Performance for Nitric Acid Plants

(Ga) Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011

(H) Standards of Performance for Sulfuric Acid Plants

(I) Standards of Performance for Hot Mix Asphalt Facilities

(J) Standards of Performance for Petroleum Refineries

(Ja) Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007

(K) Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978

(Ka) Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984

(Kb) Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels)

for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984

(L) Standards of Performance for Secondary Lead Smelters

(M) Standards of Performance for Secondary Brass and Bronze Production Plants

(N) Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973

(Na) Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983

(O) Standards of Performance for Sewage Treatment Plants

(P) Standards of Performance for Primary Copper Smelters

(Q) Standards of Performance for Primary Zinc Smelters

(R) Standards of Performance for Primary Lead Smelters

(S) Standards of Performance for Primary Aluminum Reduction Plants

(T) Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants

(U) Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants

(V) Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants

(W) Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants

(X) Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities

(Y) Standards of Performance for Coal Preparation Plants

(Z) Standards of Performance for Ferroalloy Production Facilities

(AA) Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983

(AAa) Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983

(BB) Standards of Performance for Kraft Pulp Mills

(CC) Standards of Performance for Glass Manufacturing Plants

(DD) Standards of Performance for Grain Elevators

(EE) Standards of Performance for Surface Coating of Metal Furniture

(GG) Standards of Performance for Stationary Gas Turbines

(HH) Standards of Performance for Lime Manufacturing Plants

(KK) Standards of Performance for Lead-Acid Battery Manufacturing Plants

(LL) Standards of Performance for Metallic Mineral Processing Plants

(MM) Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations

(NN) Standards of Performance for Phosphate Rock Plants

(PP) Standards of Performance for Ammonium Sulfate Manufacture

(QQ) Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing

(RR) Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations

(SS) Standards of Performance for Industrial Surface Coating: Large Appliances

(TT) Standards of Performance for Metal Coil Surface Coating

(UU) Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture

(VV) Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing

Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006

(VVa) Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006

(WW) Standards of Performance for the Beverage Can Surface Coating Industry

(XX) Standards of Performance for Bulk Gasoline Terminals

(AAA) Standards of Performance for New Residential Wood Heaters

(BBB) Standards of Performance for the Rubber Tire Manufacturing Industry

(DDD) Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry

(FFF) Standards of Performance for Flexible Vinyl and Urethane Coating and Printing

(GGG) Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006

(GGGa) Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006

(HHH) Standards of Performance for Synthetic Fiber Production Facilities

(III) Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

(JJJ) Standards of Performance for Petroleum Dry Cleaners

(KKK) Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants

(LLL) Standards of Performance for Onshore Natural Gas Processing: SO₂ Emissions

(NNN) Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations

(OOO) Standards of Performance for Nonmetallic Mineral Processing Plants

(PPP) Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants

(QQQ) Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems

(RRR) Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

(SSS) Standards of Performance for Magnetic Tape Coating Facilities

(TTT) Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines

(UUU) Standards of Performance for Calciners and Dryers in Mineral Industries

(VVV) Standards of Performance for Polymeric Coating of Supporting Substrates Facilities

(WWW) Standards of Performance for Municipal Solid Waste Landfills

(AAAA) Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6,

2001

(CCCC) Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001

(EEEE) Standards of Performance for Other Solid Waste Incineration Units for Which Construction Commenced After December 9, 2004, or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006

(IIII) Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

(JJJJ) Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

(KKKK) Standards of Performance for Stationary Combustion Turbines

(LLLL) Standards of Performance for New Sewage Sludge Incineration Units

(OOOO) Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution]

(A) Incorporations by Reference.

1. The provisions of 40 CFR 60, promulgated as of July 1, 2018, and *Federal Register* notice 83 FR 10628, promulgated on March 12, 2018, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the U.S. Environmental Protection Agency (EPA);

B. Sections 60.4, 60.9, and 60.10 of subpart A;

C. Subpart B;

D. Subpart AAA;

E. Subpart QQQQ; and

F. Incinerators subject to Hazardous Waste Management Commission rule 40 CFR 264, subpart O, as incorporated in 10 CSR 25-7.264, are not subject to this rule. The sources exempted in 40 CFR 264.340(b), as incorporated in 10 CSR 25-7.264, are subject to this rule. All other applicable requirements of Division 25 remain in effect.

(B) The subparts of 40 CFR 60 incorporated by reference in subsection (3)(A) of this rule are—

Subpart	Title
D	Standards of Performance for Fossil-Fuel-Fired Steam Generators
Da	Standards of Performance for Electric Utility Steam Generating Units
Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
Dc	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
E	Standards of Performance for Incinerators
Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and On or Before September 20, 1994
Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996
Ec	Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators
F	Standards of Performance for Portland Cement Plants
G	Standards of Performance for Nitric Acid Plants
Ga	Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011
H	Standards of Performance for Sulfuric Acid Plants
I	Standards of Performance for Hot Mix Asphalt Facilities
J	Standards of Performance for Petroleum Refineries
Ja	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
K	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984
L	Standards of Performance for Secondary Lead Smelters
M	Standards of Performance for Secondary Brass and Bronze Production Plants
N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
Na	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983

O	Standards of Performance for Sewage Treatment Plants
P	Standards of Performance for Primary Copper Smelters
Q	Standards of Performance for Primary Zinc Smelters
R	Standards of Performance for Primary Lead Smelters
S	Standards of Performance for Primary Aluminum Reduction Plants
T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants
U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants
V	Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants
W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants
X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
Y	Standards of Performance for Coal Preparation and Processing Plants
Z	Standards of Performance for Ferroalloy Production Facilities
AA	Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983
AAa	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983
BB	Standards of Performance for Kraft Pulp Mills
BBa	Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013
CC	Standards of Performance for Glass Manufacturing Plants
DD	Standards of Performance for Grain Elevators
EE	Standards of Performance for Surface Coating of Metal Furniture
GG	Standards of Performance for Stationary Gas Turbines
HH	Standards of Performance for Lime Manufacturing Plants
KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants
LL	Standards of Performance for Metallic Mineral Processing Plants
MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations
NN	Standards of Performance for Phosphate Rock Plants
PP	Standards of Performance for Ammonium Sulfate Manufacture
QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing
RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations
SS	Standards of Performance for Industrial Surface Coating: Large Appliances
TT	Standards of Performance for Metal Coil Surface Coating
UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture

VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006
VVa	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
WW	Standards of Performance for the Beverage Can Surface Coating Industry
XX	Standards of Performance for Bulk Gasoline Terminals
BBB	Standards of Performance for the Rubber Tire Manufacturing Industry
DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry
FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing
GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006
GGGa	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
HHH	Standards of Performance for Synthetic Fiber Production Facilities
III	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes
JJJ	Standards of Performance for Petroleum Dry Cleaners
KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011
LLL	Standards of Performance for SO ₂ Emissions From Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011
NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
OOO	Standards of Performance for Nonmetallic Mineral Processing Plants
PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants
QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems
RRR	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes
SSS	Standards of Performance for Magnetic Tape Coating Facilities

TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines
UUU	Standards of Performance for Calciners and Dryers in Mineral Industries
VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities
WWW	Standards of Performance for Municipal Solid Waste Landfills
XXX	Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014
AAAA	Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
CCCC	Standards of Performance for Commercial and Industrial Solid Waste Incineration Units
EEEE	Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006
III	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
JJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines
KKK	Standards of Performance for Stationary Combustion Turbines
LLL	Standards of Performance for New Sewage Sludge Incineration Units
OOO	Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced After August 23, 2011, and on or before September 18, 2015
OOOa	Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015

(4) Reporting. Reporting requirements are specified in each federal regulation [adopted] incorporated by reference.

(5) Test Methods. [The sampling methods given in 40 CFR part 60, Appendix A and specified in 10 CSR 10-6.030 shall be effective as of the date in section (1) of this rule] The test methods are specified in 40 CFR 60, Appendices A-1 through A-8 and 10 CSR 10-6.030.

AUTHORITY: section 643.050, RSMo [Supp. 2013] 2016. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed May 15, 2018.

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. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at

9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.075 Maximum Achievable Control Technology Regulations. The commission proposes to amend sections (2) and (3). If the commission adopts this rule action, the department intends to advise the U.S. Environmental Protection Agency that we will accept

delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rule-making can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule incorporates by reference the maximum achievable control technology regulations in 40 CFR 63, providing the Missouri Department of Natural Resources the authority to implement and enforce these U.S. Environmental Protection Agency regulations. The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words. This amendment also incorporates by reference new emission standards, updates, and clarifications to federal rule 40 CFR 63 that were promulgated from January 1, 2016 through January 29, 2018, and makes other clarifying changes. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is the Title V Operating Permit Program requirements, 40 CFR 70, State/EPA Workplan, and Executive Order 17-03.

(2) Definitions. Certain terms used in 40 CFR 63 refer to federal officers, agencies, and publications. The following terms *[must be]* are substituted when applicable to Missouri where appropriate for the federal counterparts:

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 63 promulgated as of July 1, [2015] **2018**, and *Federal Register* notices [80 FR 44772, 80 FR 45280, 80 FR 50386, 80 FR 54728, 80 FR 56700, 80 FR 62390, 80 FR 65470, 80 FR 72790, 80 FR 75178, 80 FR 75817, and 80 FR 76152] **82 FR 45193, 82 FR 47328, 82 FR 48156, 82 FR 49513, and 83 FR 3986** promulgated between July 1, [2015] **2017** and [December 31, 2015] **January 29, 2018**, [as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, shall apply and are hereby incorporated by reference in this rule] are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the United States Environmental Protection Agency (EPA); and

B. Sections 63.13 and 63.15(a)(2) of subpart A.

(B) The Missouri Department of Natural Resources (MoDNR) maintains authority for implementation of all standards incorporated by reference in subsection (3)(A) of this rule. The table below lists the subparts of 40 CFR 63 incorporated by reference in subsection (3)(A) of this rule, including the primary agency responsible for enforcement of the standard:

Subpart	Title	Primary Regulating Agency
F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry	MoDNR
G	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater	MoDNR
H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks	MoDNR
I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks	MoDNR
J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production	MoDNR
L	National Emission Standards for Coke Oven Batteries	MoDNR
M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities	MoDNR
N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	MoDNR
O	Ethylene Oxide Emissions Standards for Sterilization Facilities	MoDNR
Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers	MoDNR
R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)	MoDNR
S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry	MoDNR
T	National Emission Standards for Halogenated Solvent Cleaning	MoDNR
U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins	MoDNR
W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production	MoDNR
X	National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting	MoDNR
Y	National Emission Standards for Marine Tank Vessel Loading Operations	MoDNR
AA	National Emission Standards for Hazardous Air Pollutants <i>/F/</i> from Phosphoric Acid Manufacturing Plants	MoDNR

BB	National Emission Standards for Hazardous Air Pollutants /F/ from Phosphate Fertilizers Production Plants	MoDNR
CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries	MoDNR
DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations	MoDNR
EE	National Emission Standards for Magnetic Tape Manufacturing Operations	MoDNR
GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities	MoDNR
HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities	MoDNR
II	National Emission Standards for Shipbuilding /&/ and Ship Repair (Surface Coating)	MoDNR
JJ	National Emission Standards for Wood Furniture Manufacturing Operations	MoDNR
KK	National Emission Standards for the Printing and Publishing Industry	MoDNR
LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants	MoDNR
MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills	MoDNR
NN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing at Area Sources	EPA
OO	National Emission Standards for Tanks—Level 1	MoDNR
PP	National Emission Standards for Containers	MoDNR
QQ	National Emission Standards for Surface Impoundments	MoDNR
RR	National Emission Standards for Individual Drain Systems	MoDNR
SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process	MoDNR
TT	National Emission Standards for Equipment Leaks—Control Level 1	MoDNR
UU	National Emission Standards for Equipment Leaks—Control Level 2 Standards	MoDNR
VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators	MoDNR
WW	National Emission Standards for Storage Vessels (Tanks)—Control Level 2	MoDNR
XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations	MoDNR

YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards	MoDNR
CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants	MoDNR
DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production	MoDNR
EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors	MoDNR
GGG	National Emission Standards for Pharmaceuticals Production	MoDNR
HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities	MoDNR
III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production	MoDNR
JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins	MoDNR
LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry	MoDNR
MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production	MoDNR
NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing	MoDNR
OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins	MoDNR
PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production	MoDNR
QQQ	National Emission Standards for Hazardous Air Pollutants <i>[Emissions]</i> for Primary Copper Smelting	MoDNR
RRR	National Emission Standards for Hazardous Air Pollutants ^[:] for Secondary Aluminum Production	MoDNR
TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting	MoDNR
UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units	MoDNR
VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works	MoDNR
XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese	MoDNR
AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills	MoDNR
CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast	MoDNR
DDDD	National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products	MoDNR

EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)	MoDNR
FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing	MoDNR
GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production	MoDNR
HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production	MoDNR
IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks	MoDNR
JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating	MoDNR
KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans	MoDNR
MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products	MoDNR
NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances	MoDNR
OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles	MoDNR
PPPP	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products	MoDNR
QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products	MoDNR
RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture	MoDNR
SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil	MoDNR
TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations	MoDNR
UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing	MoDNR
VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing	MoDNR
WWWW	National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production	MoDNR
XXXX	National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing	MoDNR
YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines	MoDNR

ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines	EPA (Area Sources) MoDNR (Major Sources)
AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants	MoDNR
BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing	MoDNR
CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks	MoDNR
DDDDD	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters	MoDNR
EEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries	MoDNR
FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities	MoDNR
GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation	MoDNR
HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing	MoDNR
IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants	MoDNR
JJJJJ	National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing	MoDNR
KKKKK	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing	MoDNR
LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing	MoDNR
MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations	MoDNR
NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production	MoDNR
PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands	MoDNR
QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities	MoDNR
RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing	MoDNR
SSSSS	National Emissions Standards for Hazardous Air Pollutants for Refractory Products Manufacturing	MoDNR
TTTTT	National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining	MoDNR

UUUUU	National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units	MoDNR
WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers	EPA
YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities	EPA
ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources	EPA
BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities	EPA
CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities	EPA
DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources	EPA
EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources	EPA
FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources	EPA
GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources—Zinc, Cadmium, and Beryllium	EPA
HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources	EPA
JJJJJ	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources	EPA
LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources	EPA
MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources	EPA
NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds	EPA
OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources	EPA
PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources	EPA
QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources	EPA
RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources	EPA

SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources	EPA
TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources	EPA
VVVVVV	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources	EPA
WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations	EPA
XXXXXX	National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories	EPA
YYYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities	EPA
ZZZZZZ	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries	EPA
AAAAAAA	National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing	EPA
BBBBBBB	National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry	EPA
CCCCCCC	National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing	EPA
DDDDDDD	National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing	EPA
EEEEEEE	National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category	EPA
HHHHHHH	National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production	MoDNR

AUTHORITY: section 643.050, RSMo 2016. Original rule filed May 1, 1996, effective Dec. 30, 1996. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 15, 2018.

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. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules,

email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.080 Emission Standards for Hazardous Air Pollutants. The commission proposes to amend sections (2) and (3). If the commission adopts this rule action, the department intends to advise the U.S. Environmental Protection Agency that we will accept delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public

Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule incorporates by reference the maximum achievable control technology regulations in 40 CFR 61. This provides the Missouri Department of Natural Resources the authority to implement and enforce these U.S. Environmental Protection Agency regulations. The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words. This amendment also incorporates by reference new emission standards, updates, and clarifications to federal rule 40 CFR 61 that were promulgated from January 1, 2016 through July 1, 2017, and makes other clarifying changes. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is the Title V Operating Permit Program requirements, 40 CFR 70, State/EPA Workplan, and Executive Order 17-03.

(2) Definitions. Certain terms used in 40 CFR 61 refer to federal officers, agencies, and publications. The following terms *[must be]* are substituted when applicable to Missouri where appropriate for the federal counterparts:

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 61 promulgated as of July 1, ~~[2015]~~ **2018**, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, *U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, shall apply and are hereby incorporated by reference in this rule*. **Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401.** This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the U.S. Environmental Protection Agency (EPA);

B. Sections 61.04, 61.16, and 61.17 of subpart A;

C. Subpart B;

D. Subpart H;

E. Subpart I;

F. Subpart K;

G. Subpart Q;

H. Subpart R;

I. Subpart T; and

J. Subpart W.

(B) The subparts of 40 CFR 61 incorporated by reference in subsection (3)(A) of this rule are—

Subpart	Title
C	National Emission Standard for Beryllium
D	National Emission Standard for Beryllium Rocket Motor Firing
E	National Emission Standard for Mercury
F	National Emission Standard for Vinyl Chloride
J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
M	National Emission Standard for Asbestos
N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants
O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters
P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities
V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
Y	National Emission Standard/s/ for Benzene Emissions From Benzene Storage Vessels
BB	National Emission Standard/s/ for Benzene Emissions From Benzene Transfer Operations
FF	National Emission Standard for Benzene Waste Operations

AUTHORITY: section 643.050, RSMo 2016. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed May 15, 2018.

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. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
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Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.120 Restriction of Emissions of Lead From Specific

Lead Smelter-Refinery Installations. The commission proposes to amend subsections (1)(A), (3)(B), (3)(C), (5)(A), (5)(B), and (5)(E). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule establishes maximum allowable rates of emissions of lead from stacks in specific lead-smelter installations, except where New Source Performance Standards apply (as provided in 10 CSR 10-6.070). It also provides for the operation and maintenance of equipment and procedures specific to controlling lead emissions to the ambient air, both from stacks and from the fugitive emissions that escape stack collection systems at these installations. This amendment is to comply with Executive Order 17-03 criteria and removes Table 1 because it is no longer necessary due to the shutdown of the facility, updates a federal secondary Maximum Achievable Control Standard, removes any unnecessary restrictive words, and adds incorporations by reference as applicable. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

(1) Applicability.

(A) This rule [shall apply] applies to existing installations in Missouri engaged in specific smelting and refining for the production of lead.

(3) General Provisions.

(B) Provisions Pertaining to Limitations of Lead Emissions from Specific Installations.

[1. Doe Run primary lead smelter-refinery in Herculaneum,

Missouri. This installation shall limit lead emissions into the atmosphere to the allowable amount as shown in Table I.

Table I

Stack Name	Emissions Limitation	
	(lbs	per 24
hours) Main Stack	794.0	
Number 7 & 9 Baghouse Stack	56.6	
Number 8 Baghouse Stack	8.2]	

[2.]1. Doe Run Resource Recycling Division in Boss, Missouri, shall limit main stack lead emissions into the atmosphere to [0.00087] **0.000087** grains of lead per dry standard cubic [feet] foot of air. This installation shall limit total lead production to one hundred seventy-five thousand (175,000) tons per year.

(C) Provisions Pertaining to Limitations of Lead Emissions From Other Than Stacks at All Installations.

1. The owner or operator shall control fugitive emissions of lead from all process and area sources at an installation by measures described in a work practice manual identified in paragraph (3)(C)2. of this rule. It [shall be] is a violation of this rule to fail to adhere to the requirements of these work practices.

2. Work practice manual.

A. The owner or operator shall prepare, submit for approval, and then implement a process and area-specific work practice manual that will apply to locations of fugitive lead emissions at the installation.

B. The manual shall be the method of determining compliance with the provisions of this section. Failure to adhere to the work practices in the manual [shall be] is a violation of this rule.

C. Any change to the manual proposed by the owner or operator following the initial approval shall be requested in writing to the director. Any proposed change shall demonstrate that the change in the work practice will not lessen the effectiveness of the fugitive emission reductions for the work practice involved. Written approval by the director is required before any change becomes effective in the manual.

D. If the director determines a change in the work practice manual is necessary, the director will notify the owner or operator of that installation. The owner or operator shall revise the manual to reflect these changes and submit the revised manual within thirty (30) days of receipt of notification. These changes shall become effective following written approval of the revised manual by the director.

(5) Test Methods.

(A) The method of determining the concentration of visible emissions from stack sources shall be **Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources or Method 22—Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares** as specified in 10 CSR 10-6.030[(9)](22).

(B) The method of measuring lead in stack gases shall be [the sampling method] **Method 12—Determination of Inorganic Lead Emissions from Stationary Sources** as specified in 10 CSR 10-6.030[(12)](22).

(E) The methods for demonstrating compliance at the Doe Run Resource Recycling Division in Boss, Missouri, shall be those specified in 40 CFR [part] 63, subpart X. **40 CFR 63, Subpart X promulgated as of July 1, 2018 is hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.**

AUTHORITY: sections 643.050 and 643.055, RSMo [2000] 2016. Original rule filed Aug. 4, 1988, effective Dec. 29, 1988. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10 6.130 Controlling Emissions During Episodes of High Air Pollution Potential. The commission proposes to amend the rule purpose and sections (1), (2), and (3); and remove sections (4) and (5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this amendment is to remove outdated, overburdensome requirements and reaffirm the department's authority to take necessary and appropriate actions to mitigate an episode of extremely high air pollution. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction review and 536.175, RSMo, and related comments.

PURPOSE: This rule [specifies the conditions that establish air pollution alert and emergency alert levels and the associated procedures and emissions reduction objectives] provides for the mitigation of an emergency air pollution episode as required by **643.090, RSMo.**

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be

made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) *[Applicability.]* In the event of an emergency air pollution episode, in which Air Quality Index levels reach purple or maroon levels, the director of the Missouri Department of Natural Resources will notify the public and take actions to mitigate the high air pollution episode as expeditiously as possible. The *Air Quality Index* (EPA-456/F-A-002) as published by the Environmental Protection Agency in February, 2014 is hereby incorporated by reference in this rule. Copies can be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. This rule does not incorporate any subsequent amendments or additions.

[(A) This rule shall apply to all sources and premises throughout the entire state with air emissions that contribute to sulfur dioxide (SO₂), carbon monoxide (CO), ozone (O₃), nitrogen dioxide (NO₂), or Particulate Matter—10 Micron (PM₁₀) and 2.5 Micron (PM_{2.5}).

(B) The boundaries of the affected area shall be determined at the discretion of the director in accordance with the nature and magnitude of the pollutant concentrations and meteorological conditions that cause the alert.]

(2) *[Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.]* The director will determine the boundaries of the affected area in accordance with the nature and magnitude of the pollutant concentrations and meteorological conditions causing the episode.

(3) *[General Provisions.]* When, in the judgment of the director, meteorological conditions and pollutant concentrations warrant discontinuance of emergency conditions, the director shall terminate the mitigation measures.

[(A) Air Pollution Alerts.

1. The Air Quality Index shall be reported to the general public on a daily basis by all metropolitan statistical areas with a population exceeding three hundred fifty thousand (350,000).

2. Alert levels for applicable air pollutants are stated in terms of the Air Quality Index (AQI) as defined in 40 CFR 58, Appendix G. Table A shows the relation of the AQI ranges to alert categories.

Table A		
AQI		
AQI	Alert Category	Alert Color
0–50	Good	Green
51–100	Moderate	Yellow
101–150	Unhealthy for Sensitive groups	Orange
151–200	Unhealthy	Red
201–300	Very Unhealthy	Purple
301–400	Hazardous	Maroon
401–500	Hazardous	Maroon

3. Alert types and levels of initiation. If an AQI value falls within the AQI range listed in Table A of this rule, the

corresponding alert color shall be initiated.

4. Declaration of alerts. An orange alert, red alert, purple alert, or maroon emergency alert may be declared on the basis of deteriorating air quality alone; an Air Stagnation Advisory need not be in effect. The appropriate alert level should be declared by the director as ambient monitoring would indicate.

5. Termination of alerts. When, in the judgment of the director, meteorological conditions and pollutant concentrations warrant discontinuance of any alert condition, the director shall notify the technical staff, the chairman, and members of the Missouri Air Conservation Commission that the alert has been discontinued and issue a public notice to that effect.

(B) Conditions. This subsection provides conditions that establish alert level categories.

<i>Table B</i>			
<i>Conditions for Alert Level Categories</i>			
<i>Orange (101-150)</i>	<i>Red (151-200)</i>	<i>Purple (201-300)</i>	<i>Maroon (301-500)</i>
<p><i>This alert level AQI value is equaled or exceeded at any one (1) monitoring station within the affected area, unless there is a current forecast of meteorological improvement within the next twenty-four (24) hours.</i></p> <p style="text-align: center;"><i>-- and --</i></p> <p><i>Meteorological conditions are such that the conditions can be expected to remain or reoccur in this alert level range during the next twenty-four (24) or more hours or increase unless control actions are taken.</i></p>	<p><i>This alert level AQI value is equaled or exceeded at any one (1) monitoring station within the affected area, unless there is a current forecast of meteorological improvement within the next twenty-four (24) hours.</i></p> <p style="text-align: center;"><i>-- and --</i></p> <p><i>Meteorological conditions are such that the conditions can be expected to remain or reoccur in this alert level range during the next twenty-four (24) or more hours or increase unless control actions are taken.</i></p>	<p><i>This alert level AQI value is equaled or exceeded at any one (1) monitoring station within the affected area.</i></p>	<p><i>This alert level AQI value is equaled or exceeded at any one (1) monitoring station within the affected area.</i></p>
		<p style="text-align: center;"><i>-- or --</i></p> <p><i>This alert level AQI value is equaled or exceeded as the arithmetic mean for twelve (12) consecutive hours and an Air Stagnation Advisory is in effect.</i></p>	<p style="text-align: center;"><i>-- or --</i></p> <p><i>This alert level AQI value is equaled or exceeded as the arithmetic mean for twelve (12) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.</i></p>
		<p style="text-align: center;"><i>-- or --</i></p> <p><i>The red alert AQI value is equaled or exceeded as the arithmetic mean for twenty-four (24) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.</i></p>	<p style="text-align: center;"><i>-- or --</i></p> <p><i>The purple alert AQI value is equaled or exceeded as the arithmetic mean for twenty-four (24) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.</i></p>
			<p style="text-align: center;"><i>-- or --</i></p> <p><i>The red alert AQI value is equaled or exceeded as the arithmetic mean for thirty-six (36) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.</i></p>

(C) Procedures. This subsection establishes procedures for addressing alert level conditions.

<i>Table C</i>		
<i>Procedures</i>		
<i>Red (151-200)</i>	<i>Purple (201-300)</i>	<i>Maroon (301-500)</i>
<i>The general public shall be informed through the news media that an alert of this level exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions that will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.</i>	<i>The general public shall be informed through the news media that an alert of this level exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions that will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.</i>	<i>The general public shall be informed through the news media that an alert of this level exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions that will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.</i>
<i>All affected governmental control agencies shall be notified of the existing alert level and that coordination of action is required.</i>	<i>All affected governmental control agencies shall be notified of the existing alert level and that coordination of action is required.</i>	<i>All affected governmental control agencies shall be notified of the existing alert level and that coordination of action is required.</i>
<i>All hospitals within the affected area shall be notified of the existing alert level and be prepared for an increase in the number of patients seeking treatment.</i>	<i>All hospitals within the affected area shall be notified of the existing alert level and be prepared for an increase in the number of patients seeking treatment.</i>	<i>All hospitals within the affected area shall be notified of the existing alert level and be prepared for an increase in the number of patients seeking treatment.</i>
<i>The frequency of air monitoring shall be increased at all monitoring stations that are not continuous at intervals not exceeding one (1) hour with continual hourly review at a central control location, if this equipment is available and it is deemed necessary by the director.</i>	<i>The frequency of air monitoring shall be increased at all monitoring stations that are not continuous at intervals not exceeding one (1) hour with continual hourly review at a central control location, if this equipment is available and it is deemed necessary by the director.</i>	<i>The frequency of air monitoring shall be increased at all monitoring stations that are not continuous at intervals not exceeding one-half (1/2) hour with continual half-hour review at a central control location, if this equipment is available and it is deemed necessary by the director.</i>
<i>All open burning shall cease throughout the affected area.</i>	<i>All open burning and incineration shall cease throughout the affected area.</i>	<i>All open burning and incineration shall cease throughout the affected area.</i>
<i>The general public shall be requested through the news media to restrict the unnecessary use of motor vehicles.</i>	<i>The general public shall be told through the news media that local vehicular traffic shall avoid certain areas and all unnecessary use of motor vehicles is restricted. Nonlocal vehicular traffic may be diverted around the affected area depending upon which pollutant(s) caused the existing conditions.</i>	<i>The use of motor vehicles is prohibited except in emergencies with the approval of local or state police.</i>

	<p><i>Airlines operating within the purple alert area shall be notified that those conditions exist and that a reduction of flights out of the airport may be required.</i></p>	<p><i>All airplane flights originating within the area of the maroon emergency alert shall be cancelled.</i></p>
	<p><i>If requested by the director, facilities that are sources of air contaminant emissions are required to file alert plans in accordance with section (4) of this rule and shall be prepared to implement the plan upon notification by the director in the event of a purple alert.</i></p>	<p><i>If requested by the director, facilities that are sources of air contaminant emissions are required to file alert plans in accordance with section (4) of this rule and shall be prepared to implement the plan upon notification by the director in the event of a maroon emergency alert.</i></p>
		<p><i>All places of employment described as follows shall immediately cease operation during a maroon emergency alert: mining and quarrying; contract construction work; wholesale trade establishments; schools and libraries; governmental agencies except those needed to administer the air pollution alert program and other essential agencies determined by the director to be vital for public safety and welfare and needed to administer the provisions of this rule; retail trade stores except those dealing primarily in sale of food or pharmacies; banks, real estate agencies, insurance offices, and similar business; laundries, cleaners and dryers, beauty and barber shops, and photographic studios; amusement, recreational, gaming, and entertainment service establishments; automobile repair and automobile service garages; and advertising offices, consumer credit reporting, adjustment and collection agencies, printing and duplicating services, rental agencies, and commercial testing laboratories.</i></p>
		<p><i>All manufacturing facilities except those required to submit alert plans shall institute action that will result in maximum reduction of air contaminants from their operations by ceasing, curtailing, or postponing operations to the extent possible without causing injury to persons or damage to equipment.</i></p>

(4) *Reporting and Record Keeping.* Facilities that are sources of air contaminant emissions and required to file alert plans per Table C of this rule shall file purple and maroon alert plans with the director within sixty (60) days of the director's request. Alert plans shall—

(A) Address the objectives provided in Tables D, E, and F; and

(B) Include the planning necessary for implementation.

Updates to alert plans, including requests for rescissions, shall be provided when changes to operations necessitate.

<i>Table D</i>	
<i>Purple Alert (201-300) Plan Objectives</i>	
<i>Sources</i>	<i>Objectives</i>
<i>Electric power generating facilities</i>	<i>Reduction of emissions by diverting electric power generation to facilities outside of area for which the alert is called.</i>
	<i>If applicable, reduce emissions by utilization of fuels having low ash and sulfur content. If applicable, soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).</i>
<i>Process steam generating facilities</i>	<i>Reduction of steam load demands consistent with continuing the operation of the plant.</i>
	<i>If applicable, reduce emissions by utilization of fuels having low ash and sulfur content. If applicable, soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).</i>
<i>Manufacturing industries of the following Standard Industrial Classification Manual (SIC) group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay, and concrete product industries, group 32; primary metal industries, group 33</i>	<i>Reduction of heat load demands for processing to a minimum.</i>
	<i>Reduction of air contaminant emissions by curtailing, postponing, or deferring production and allied operations. Stoppage of all trade waste disposal practices that emit particles, gases, vapors, or malodorous substances including incineration.</i>
<i>Other manufacturing facilities required to submit alert plans by the director</i>	<i>Reduction of heat load demands for processing to a minimum.</i>
	<i>Reduction of air contaminant emissions by curtailing, postponing, or deferring production and allied operations. Stoppage of all trade waste disposal practices that emit particles, gases, vapors, or malodorous substances including incineration.</i>
<i>Private, public, and commercial operations</i>	<i>For refuse disposal, stoppage of all open burning including disposal of trees and burning at fire-fighting schools, except as required for disposal of hazardous materials or other emergency needs.</i>
	<i>For refuse disposal, operation of incinerators shall cease per Table C of this rule.</i>
<i>Transportation</i>	<i>See Table C of this rule for motor vehicle restrictions.</i>

<i>Table E</i>	
<i>Maroon Emergency Alert (301-400) Plan Objectives</i>	
<i>Sources</i>	<i>Objectives</i>
<i>Electric power generating facilities</i>	<i>Reduction of emissions by diverting electric power generation to facilities outside of area for which the alert is called.</i>
	<i>If applicable, reduce emissions by utilization of fuels having low ash and sulfur content. If applicable, soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).</i>
<i>Process steam generating facilities</i>	<i>If applicable, obtain maximum reduction of air contaminant emissions by utilization of fuels having the lowest ash and sulfur content.</i>
	<i>If applicable, maximize use of periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.) for soot blowing and boiler lancing.</i>
<i>Manufacturing industries of the following Standard Industrial Classification Manual (SIC) group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay, and concrete product industries, group 32; primary metal industries, group 33</i>	<i>Maximum reduction of heat load demands for processing.</i>
	<i>Maximum reduction of air contaminant emissions by, if necessary, postponing production and allied operations. Stoppage of all trade waste disposal practices that emit particles, gases, vapors, or malodorous substances including incineration.</i>
<i>Other manufacturing facilities required to submit alert plans by the director</i>	<i>Maximum reduction of heat load demands for processing.</i>
	<i>Maximum reduction of air contaminant emissions by, if necessary, postponing production and allied operations. Stoppage of all trade waste disposal practices that emit particles, gases, vapors, or malodorous substances including incineration.</i>
<i>Private, public, and commercial operations</i>	<i>For refuse disposal, stoppage of all open burning including disposal of trees and burning at fire-fighting schools, except as required for disposal of hazardous materials or other emergency needs.</i>
	<i>For refuse disposal, operation of incinerators shall cease per Table C of this rule.</i>
<i>Transportation</i>	<i>See Table C of this rule for motor vehicle restrictions.</i>

<i>Table F</i>	
<i>Maroon Emergency Alert (401-500) Plan Objectives</i>	
<i>Sources</i>	<i>Objectives</i>
<i>Electric power generating facilities</i>	<i>Reduction of emissions by diverting electric power generation to facilities outside of area for which the alert is called.</i>
	<i>If applicable, reduce emissions by utilization of fuels having low ash and sulfur content. If applicable, soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).</i>
<i>Process steam generating facilities</i>	<i>Maximum reduction of air contaminant emissions by reducing heat and steam load demands to values consistent with preventing equipment damage.</i>
	<i>If applicable, maximize use of periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.) for soot blowing and boiler lancing.</i>
<i>Manufacturing industries of the following Standard Industrial Classification Manual (SIC) group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay, and concrete product industries, group 32; primary metal industries, group 33</i>	<i>Maximum reduction of heat load demands for processing.</i>
	<i>Elimination of air contaminant emissions from the manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.</i>
<i>Other manufacturing facilities required to submit alert plans by the director</i>	<i>Maximum reduction of heat load demands for processing.</i>
	<i>Elimination of air contaminant emissions from the manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.</i>
<i>Private, public, and commercial operations</i>	<i>For refuse disposal, stoppage of all open burning including disposal of trees and burning at fire-fighting schools, except as required for disposal of hazardous materials or other emergency needs.</i>
	<i>For refuse disposal, operation of incinerators shall cease per Table C of this rule.</i>
	<i>The following places of employment, if notified by the director, immediately shall cease operations: mining and quarrying operations; construction projects except as required to avoid emergent physical harm; manufacturing establishments except those required to have in force an air pollution alert plan; wholesale trade establishments; governmental units, except as required to implement the provisions of this rule and other operations essential to immediate protection of the public welfare and safety; retail trade and service establishments except pharmacies, food stores, and other similar operations providing for emergency needs; other commercial service operations, such as those engaged in banking, insurance, real estate, advertising, and the like; educational institutions; and amusement, recreational, gaming, and entertainment facilities.</i>
<i>Transportation</i>	<i>See Table C of this rule for motor vehicle restrictions.</i>

(5) *Test Methods.* The testing references for Missouri ambient air quality data are as specified in 10 CSR 10-6.040 Reference Methods.]

AUTHORITY: section 643.050, RSMo [Supp. 2013] 2016. Original rule filed May 11, 1984, effective Oct. 11, 1984. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.161 Commercial and Industrial Solid Waste Incinerators. The commission proposes to amend subsection (2)(A) and sections (3) and (4). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Plan for Designated Facilities and Pollutants pursuant to section 111(d) of the Clean Air Act for commercial and industrial solid waste incinerators. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule incorporates by reference the federal regulatory requirements for existing commercial and industrial solid waste incineration units in Missouri. The purpose of this rulemaking is to update the incorporation by reference date to include recent changes to the federal Commercial and Industrial Solid Waste Incineration (CISWI) rule. Recent changes include finalizing definitions for kiln and continuous emissions monitoring system data during startup and shutdown. Also, the particulate matter limit for waste-burning kilns and the emission limits for coal-burning recovery units are finalized. This rulemaking will also remove unnecessary use of restrictive words, update/add incorporations by reference as applicable, and make administrative updates. This rulemaking will also add an optional production-based mercury (Hg) emission limit as an alternative to the concentration-based Hg emission limit for the waste-

burning kiln subcategory. This rulemaking will assure that state rule requirements remain consistent with the latest federal rule requirements to avoid confusion. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is **Federal Register 81 FR 40955** dated June 23, 2016, Executive Order 17-03 Red Tape Reduction Review and related comments, and a Central Plains Cement Company variance request dated November 13, 2017, for an alternative production-based Hg limit.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(2) Definitions.

(A) The [provisions] definitions of 40 CFR 60.2875], promulgated as of February 7, 2013, shall apply and are hereby incorporated by reference in this rule, as published by the Office of Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions] apply as specified in 10 CSR 10-6.030(22).

(3) General Provisions. The following references to 40 CFR 60.2575 through 60.2735, 40 CFR 60.2805 through 60.2870, and 40 CFR 60, Subpart DDDD Tables 1 through 9, [promulgated February 7, 2013, shall apply and are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions] apply as specified in 10 CSR 10-6.030(22).]:

(A) Increments of Progress—40 CFR 60.2575 through 60.2615 and 40 CFR 60.2815 through 60.2855;

(B) Waste Management Plan—40 CFR 60.2620 through 60.2630;

(C) Operator Training and Qualification—40 CFR 60.2635 through 60.2665;

(D) Emission Limitations and Operating Limits—40 CFR 60.2670 through 60.2685 and 40 CFR 60.2860;

(E) Performance Testing—40 CFR 60.2690 through 60.2695;

(F) Initial Compliance Requirements—40 CFR 60.2700 through 60.2706. **If the owner or operator of a waste-burning kiln chooses to switch to and comply with the equivalent production-based mercury emission limit in subparagraph (3)(K)1.B. of this rule, initial compliance shall be demonstrated pursuant to 40 CFR 63.1348(a)(5). The initial compliance test must begin on the first operating day following completion of the field testing and data collection that demonstrates that the continuous emissions monitoring system has satisfied the relevant performance acceptance criteria of Performance Specifications 12A or 12B in 40 CFR Part 60 Appendix B. The notification required by 40 CFR 60.2760(a) through (c) shall also include the owner or operators intention to comply with the equivalent production-based mercury emission limit in subparagraph (3)(K)1.B. of this rule. For waste-burning kilns choosing to comply with the equivalent production-based mercury emission limit in paragraph (3)(K)1.B. of this rule, the term operating day in 40 CFR 63.1348(a)(5), 40 CFR 63.1348(b)(7) and 40 CFR 63.1349(b)(5) means any twenty four (24)-hour period beginning at 12:00 midnight during which the kiln produces any amount of clinker. 40 CFR 63.1348(a)(5), 40 CFR 63.1348 (b)(7), 63.1349(b)(5), and 40 CFR 60 Appendix**

B Specifications 12A and 12B promulgated as of July 1, 2018 are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;

(G) Continuous Compliance Requirements—40 CFR 60.2710 through 60.2725. **If the owner or operator of a waste-burning kiln chooses to switch to and comply with the equivalent production-based mercury emission limit in subparagraph (3)(K)1.B. of this rule, continuous compliance shall be demonstrated pursuant to the procedures of 40 CFR 63.1348(b)(7) and 40 CFR 63.1349(b)(5). 40 CFR 63.1348(b)(7), and 63.1349(b)(5) promulgated as of July 1, 2018 are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;**

(H) Monitoring—40 CFR 60.2730 through 60.2735 and 40 CFR 60.2865. **If the owner or operator of a waste-burning kiln chooses to switch to and comply with the equivalent production-based mercury emission limit in subparagraph (3)(K)1.B. of this rule, it must also monitor mercury pursuant to 40 CFR 63.1350(k), the clinker production rate pursuant to 40 CFR 63.1350(d), and the flow rate pursuant to 40 CFR 63.1350(n). An owner or operator of a waste burning kiln is not required to develop an emissions monitoring plan pursuant 40 CFR 63.1350(p)(1) through (p)(4) if the owner or operator prepares the emissions monitoring plan required pursuant to 40 CFR 60.2710(k) and 40 CFR 60.2710(l). 40 CFR 63.1350(d), (k), (n), and (p)(1) promulgated as of July 1, 2018 are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;**

(I) Title V Operating Permits—40 CFR 60.2805; *and*

(J) Table 1 through Table 9. The compliance dates for the increments of progress are—

1. For Increment 1, the final control plan must be submitted within one (1) year of the effective date of this rule; and

2. For Increment 2, for CISWI units that commenced construction on or before June 4, 2010, the final compliance date is February 7, 2018/./; *and*

(K) *[General reference notes]* **Other requirements:**

1. Units applicable under paragraph (1)(A)1. of this rule must comply with the emission limits as follows:

A. For energy recovery units, Table 7 of 40 CFR 60 subpart DDDD as specified in 10 CSR 10-6.030(22);

B. For waste burning kilns, Table 8 of 40 CFR 60 subpart DDDD as specified in 10 CSR 10-6.030(22); *and*

C. For small remote incinerators, Table 9 of 40 CFR 60 subpart DDDD as specified in 10 CSR 10-6.030(22);

2. Units applicable under paragraph (1)(A)2. of this rule, Table 2 of 40 CFR 60 subpart DDDD as specified in 10 CSR 10-6.030(22); *and*

3. Units applicable under paragraph (1)(A)3. of this rule, Table 6 of 40 CFR 60 subpart DDDD or Table 1 of 40 CFR 60 subpart CCCC as specified in 10 CSR 10-6.030(22), whichever is more stringent.

(4) Reporting and Record Keeping. The provisions of 40 CFR 60.2740 through 60.2800 and 40 CFR 60.2870, *[promulgated as of February 17, 2013, shall apply and are hereby incorporated by reference in this rule, as published by the Office of Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or addi-*

tions] apply as specified in 10 CSR 10-6.030(22). If the owner or operator of a waste-burning kiln chooses to switch to and comply with the equivalent production-based mercury emission limit in subparagraph (3)(K)1.B. of this rule, it shall also keep records of all data collected from the continuous flow rate monitoring system required by 40 CFR 63.1350(n), all data collected from the clinker production monitoring system required by 40 CFR 63.1350(d), and all calculated thirty (30)-operating day rolling average values derived from the mercury monitoring system. Units in the waste-burning kiln subcategory complying with the equivalent production-based mercury emission limit in subparagraph (3)(K)1.B. of this rule must also report all deviations from the equivalent production-based mercury limit in accordance with 40 CFR 60.2740 through 40 CFR 60.2800, 40 CFR 63.1350(d), and (n) promulgated as of July 1, 2018 and are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 643.050, RSMo [Supp. 2013] 2016. Original rule filed July 12, 2013, effective March 30, 2014. Amended: Filed May 9, 2018.

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: *A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.241 Asbestos Projects—Registration, Abatement, Notification, Inspection, Demolition, and Performance Requirements. The commission proposes to amend sections (1), (2), and (4) and subsections (3)(A)–(3)(F), delete subsection (3)(I), and renumber and amend subsection (3)(J). If the commission adopts this rule action, the department does not intend to submit this rule amendment to the U.S. Environmental Protection Agency because the rule is administrative and the rule has never been approved as part of the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the

end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule requires asbestos contractors to register with the department, to notify the department of each asbestos project, to allow the department to inspect asbestos projects, and to pay inspection fees. Each person who intends to perform asbestos projects in Missouri must register annually with the Missouri Department of Natural Resources' Air Pollution Control Program. Any person undertaking a demolition or asbestos project must submit a notification to the appropriate agency of the department for each asbestos project and each notification must be accompanied by a fee. Asbestos contractors must allow representatives of the department to conduct inspections of projects and must pay inspection fees. The purpose of this rulemaking is to comply with Executive Order 17-03 and related comments and will remove the unnecessary use of restrictive words, add definitions specific to this rule, update incorporated by reference information, and remove the requirement to provide a forty-five (45)-day comment period for revisions to department-supplied forms. This proposed rulemaking will also add conditions for denial of asbestos registration applications, clarifying requirements to receive and keep asbestos registrations, and is consistent with 643.230.1 RSMo. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is staff comments dated August 23, 2013 and July 11, 2016; and Executive Order 17-03 Red Tape Reduction Review and related comments.

(1) Applicability.

(A) This rule *[shall apply]* applies to—

1. All persons that authorize, design, conduct, and work in asbestos projects; and
2. All persons that undertake demolitions *[projects]* or monitor air-borne asbestos and dispose of asbestos waste as a result of asbestos projects.

(B) Exemptions. The department may exempt a person from registration, certification, and certain notification requirements provided the person conducts asbestos projects solely at the person's own place of business as part of normal operations in the facility and also is subject to the requirements and applicable standards of the United States Environmental Protection Agency (EPA) and United States Occupational Safety and Health Administration (OSHA) 29 CFR 1926.1101 promulgated as of July 1, 2018 and are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions. This exemption shall not apply to asbestos contractors, to those subject to the requirements of the Asbestos Hazard Emergency Response Act (AHERA), and to those persons who provide a service to the public in their place(s) of business as the economic foundation of the facility. These shall include, but not be limited to, child day-care centers, restaurants, nursing homes, retail outlets, medical care facilities, hotels, and theaters. Business entities that have received state approved exemption status shall comply with all federal air sampling requirements for their planned renovation operations. The Asbestos Hazard Emergency Response Act as published by the Department of Commerce and Trade October 1986 is incorporated by reference in this rule. Copies can be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. This rule does not incorporate any subsequent amendments or additions.

(2) Definitions. *[Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.]*

(A) Asbestos—The asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolitetremolite.

(B) Asbestos abatement—The encapsulation, enclosure, or removal of asbestos-containing materials, in or from a building, or air contaminant source; or preparation of friable asbestos-containing material prior to demolition.

(C) Asbestos inspector—An individual who collects and assimilates information used to determine the presence and condition of asbestos-containing material in a building or other air contaminant source. An asbestos inspector has to hold a diploma from a fully-approved EPA or Missouri-accredited AHERA inspector course and a high school diploma or its equivalent.

(D) Demolition—The wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

(E) Regulated asbestos-containing material (RACM)—Defined as follows:

1. Friable asbestos material;
2. Category I nonfriable ACM that has become friable;
3. Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading; or
4. Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this paragraph.

(F) Definitions. Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Registration.

1. Any person that conducts an asbestos project shall register with the department. Business entities that qualify for exemption status from the state must reapply for exemption from registration.

2. The person shall apply for registration renewal on an annual basis, and two (2) months before the expiration date shall send the application to the department for processing. The contractor registration application or business exemption information shall be submitted on the forms provided by the department.

3. Annually, the person submitting a registration application to the department shall remit a nonrefundable fee of one thousand dollars (\$1,000) to the department. Effective January 1, 2017, the registration fee is two thousand six hundred fifty dollars (\$2,650).

4. To determine eligibility for registration and registration renewal, the department may consider the compliance history of the applicant as well as that of all management employees and officers. The department may also consider the compliance record of any other entity of which those individuals were officers and management employees.

5. Registration may be denied for any one (1) or more of the following reasons:

A. Providing false or misleading statements in the application;

B. Failure to submit a complete application;

C. Three (3) or more citations or violations of existing asbestos regulations within the last two (2) years;

D. Three (3) or more violations of 29 CFR 1910.1001 or 29 CFR 1926.1101 within the last two (2) years;

E. Fraud or failure to disclose facts relevant to their application; and

F. Any other information which may affect the applicant's ability to appropriately perform asbestos work.

(B) Abatement Procedures and Practices.

1. Asbestos project contractors shall use only individuals that have been certified by the department in accordance with 10 CSR 10-6.250 and Chapter 643, RSMo on asbestos abatement projects.

2. At each asbestos project site the person shall provide the following information for inspection by the department:

A. Proof of current departmental registration;

B. Proof of current departmental occupational certification

for those individuals on the project;

C. Most recent available air sampling results;

D. Current photo identification for all applicable individuals engaged in the project; and

E. Proof of passage of the training course for the air sampling technicians and photo identifications for air sampling technicians.

(C) Revocation of Registration. The director may deny, suspend, or revoke any person's registration obtained under section (3) of this rule if the director finds the person in violation of sections 643.225-643.250, RSMo or Missouri rules 10 CSR 10-6.241 or 10 CSR 10-6.250 or any applicable federal, state, or local standard for asbestos **abatement** projects.

(D) Any person that authorizes an asbestos project, asbestos inspection, or any AHERA-related work *[shall]* **has to** ensure that Missouri registered contractors and certified individuals are employed, and that all post-notification procedures on the project are in compliance with this rule and 10 CSR 10-6.250 and Chapter 643, RSMo. Business entities that have exemption status from the state are exempt from using registered contractors and from post-notification requirements, when performing in-house asbestos **abatement** projects.

(E) Asbestos Project Notification. Any person undertaking an asbestos project shall submit a notification to the department for review at least ten (10) working days prior to the start of the project. Business entities with state-approved exemption status are exempt from notification except for those projects for which notification is required by the EPA's National Emission Standards for Hazardous Air Pollutants (NESHAPS). The department may waive the ten (10)-working day review period upon request for good cause. To apply for this waiver, the person shall complete the appropriate sections of the notification form provided by the department. The person who applies for the ten (10)-working day waiver must obtain approval from the department before the project can begin.

1. The person shall submit the notification form provided by the department.

2. If an amendment to the notification is necessary, the person shall notify the department immediately by telephone or FAX. The department must receive the written amendment within five (5) working days following verbal agreement.

3. Asbestos project notifications shall state actual dates and times of the project, the on-site supervisor, and a description of work practices. If the person must revise the dates and times of the project, the person shall notify the department and the regional office or the appropriate local delegated enforcement agency at least twenty-four (24) hours in advance of the change by telephone or FAX and then immediately follow-up with a written amendment stating the change. The department must receive the written amendment within five (5) working days of the phone or FAX message.

4. A nonrefundable notification fee of one hundred dollars (\$100) will be charged for each project constituting one hundred sixty (160) square feet, two hundred sixty (260) linear feet, or thirty-five (35) cubic feet or greater. Effective January 1, 2017, the notification fee is two hundred dollars (\$200). If an asbestos project is in an area regulated by an authorized local air pollution control agency, and the person is required to pay notification fees to that agency, the person is exempt from paying the state fees. Persons conducting planned renovation projects determined by the department to fall under EPA's 40 CFR part 61 subpart M **as specified in 10 CSR 10-6.030(23)** must pay this fee and the inspection fees required in subsection (3)(F) of this rule.

5. Emergency project. Any person undertaking an emergency asbestos project shall notify the department **within twenty-four (24) hours of the onset of the emergency** by telephone and must receive departmental approval of emergency status. *[The person must notify the department within twenty-four (24) hours of the onset of the emergency.]* Business entities with state-approved exemption status are exempt from emergency notification for state-approved projects that are part of a NESHAPS planned renovation

annual notification. If the emergency occurs after normal working hours or weekends, the person shall contact the Environmental Services Program. The notice shall provide—

A. A description of the nature and scope of the emergency;

B. A description of the measures immediately used to mitigate the emergency; and

C. A schedule for removal. Following the emergency notice, the person shall provide to the director a notification on the form provided by the department and *[the person shall]* submit it to the director within seven (7) days of the onset of the emergency. The amendment requirements for notification found in subsection (3)(E) of this rule are applicable to emergency projects.

(F) Inspections. There shall be a charge of one hundred dollars (\$100) per inspection for the first three (3) inspections of any asbestos project. Effective January 1, 2017, the inspection fee is two hundred dollars (\$200) per inspection for the first two (2) inspections. The department or the local delegated enforcement agency shall bill the person for that inspection(s) and the person shall submit the fee(s) within sixty (60) days of the date of the invoice, or sooner, if required by a local delegated enforcement agency within its area of jurisdiction.

[(I) After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.]

[(J)](I) Demolition [Projects]. Effective January 1, 2017, a non-refundable notification fee of one hundred dollars (\$100) will be charged for each demolition *[project]* regulated under 10 CSR 10-6.080. If a demolition *[project]* is in an area regulated by an authorized local air pollution control agency and the person is required to pay notification fees to that agency, the person is exempt from paying the state fees.

(4) Reporting and Record Keeping.

(A) Post-Notification.

1. Any person undertaking an asbestos project that requires notification according to subsection (3)(E) of this rule, on the department-provided form shall notify the department within sixty (60) days of the completion of the project. This notice shall include a signed and dated receipt for the asbestos waste generated by the project issued by the landfill named on the notification. *This notice also shall include* **and** any final clearance air monitoring results. The technician performing the analysis shall sign and date all reports of analyses.

2. Business entities are exempt from post-notification requirements, but *[shall]* **have to** keep records of waste disposal for department inspection.

(B) Additional Record Keeping. The contractor and the owner shall keep the air monitoring results for three (3) years. *The person shall* **and** make the results available to representatives of the department upon request. All AHERA projects shall comply with EPA air monitoring requirements in 40 CFR part 763 **promulgated as of July 1, 2018 and are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.**

AUTHORITY: section 643.225, RSMo [Supp. 2013] 2016. Original rule filed Jan. 12, 2004, effective Sept. 30, 2004. Amended: Filed June 7, 2007, effective Jan. 30, 2008. Amended: Filed July 14, 2015, effective Feb. 29, 2016. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

PROPOSED AMENDMENT

10 CSR 10-6.250 Asbestos Projects—Certification, Accreditation and Business Exemption Requirements. The commission proposes to amend sections (1) and (2), and subsections (3)(A)–(3)(E); and delete subsection (3)(G). If the commission adopts this rule action, the department does not intend to submit this rule amendment to the U.S. Environmental Protection Agency because the rule is administrative and the rule has never been approved as part of the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule requires individuals who work in asbestos projects to be certified by the Missouri Department of Natural Resources Air Pollution Control Program. This rule requires training providers who offer training for asbestos occupations to be accredited by the Missouri Department of Natural Resources Air Pollution Control Program. This rule requires persons who hold exemption status from certain requirements of this rule to allow the department to monitor training provided to employees. Each individual who works in asbestos projects must first obtain certification for the appropriate occupation from the department. Each person who offers training for asbestos occupations must first obtain accreditation from the department. Certain business entities who meet the requirements for state-approved exemption status must allow the department to monitor training classes provided to employees who perform asbestos projects. The purpose of this rulemaking is to comply with Executive Order 17-03 and related comments and will remove the unnecessary use of restrictive words, add definitions specific to this rule, update incorporated by reference information, and remove the requirement to provide a forty-five (45)-day comment period for revisions to department-supplied forms. This proposed rulemaking will also add conditions for denial of asbestos occupation certification applications, clarifying requirements to receive and keep asbestos certifications, and is consistent with 643.230.1, RSMo. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is staff comments dated August 23, 2013 and July 11, 2016; and Executive Order 17-03 Red Tape Reduction Review and related comments.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Applicability. This rule [shall apply] applies to—

(2) Definitions. [Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.]

(A) Asbestos—The asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolitetremolite.

(B) Facility—Any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four (4) or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

(C) Definitions. Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Certification.

1. An individual must receive certification from the department before that individual participates in an asbestos project, inspection, AHERA management plan, abatement project design, or asbestos air sampling in the state of Missouri. This certification must be renewed annually with the exception of air sampling professionals. To become certified an individual must meet the qualifications in the specialty area as defined in the EPA's AHERA Model Accreditation Plan, 40 CFR part 763, Appendix C, subpart E promulgated as of July 1, 2018 and hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions. The individual must successfully complete a fully-approved U.S. Environmental Protection Agency (EPA) or Missouri-accredited AHERA training course and pass the training course exam and pass the Missouri asbestos examination with a minimum score of seventy percent (70%) and submit a completed department-supplied application form to the department along with the appropriate certification fees. The department shall issue a certificate to each individual that meets the requirements for the job category.

2. In order to receive Missouri certification, individuals must be trained by Missouri accredited providers.

3. Qualifications. An individual shall present proof of these to the department with the application for certification. The following are the minimum qualifications for each job category:

A. An asbestos air sampling professional conducts, oversees, or is responsible for air monitoring of asbestos projects. Air sampling professionals must satisfy one (1) of the following qualifications for certification:

(I) Bachelor of science degree in industrial hygiene plus one (1) year of field experience. The individual must provide a copy of his/her diploma, a certified copy of his/her transcript, and documentation of one (1) year of experience;

(II) Master of science degree in industrial hygiene. The individual must provide a copy of his/her diploma and a certified copy of his/her transcript;

(III) Certification as an industrial hygienist as designated by the American Board of Industrial Hygiene. The individual must provide a copy of his/her certificate and a certified copy of his/her transcript, if applicable;

(IV) Three (3) years of practical industrial hygiene field experience including significant asbestos air monitoring and completion of a forty (40)-hour asbestos course including air monitoring instruction. At least fifty percent (50%) of the three (3)-year period must have been on projects where a degreed or certified industrial hygienist or a Missouri certified asbestos air sampling professional was involved. The individual must provide to the department written reference by the industrial hygienist or the asbestos air sampling professional stating the individual's performance of monitoring was acceptable and that the individual is capable of fulfilling the responsibilities associated with certification as an asbestos air sampling professional. The individual must also provide documentation of his/her experience and a copy of his/her asbestos course certificate; or

(V) Other qualifications including, but not limited to, an American Board of Industrial Hygiene accepted degree or a health/safety related degree combined with related experience. The individual must provide a copy of his/her diploma and/or certification, a certified copy of his/her transcript, and letters necessary to verify experience;

B. An asbestos air sampling technician is an individual who has been trained by an air sampling professional to do air monitoring and who conducts air monitoring of asbestos projects. Air sampling technicians need not be certified but are required to pass a training course and have proof of passage of the course at the site along with photo identification. This course *[shall]* include:

- (I) Air monitoring equipment and supplies;
- (II) Experience with pump calibration and location;
- (III) Record keeping of air monitoring data for asbestos projects;

- (IV) Applicable asbestos regulations;
- (V) Visual inspection for final clearance sampling; and
- (VI) A minimum of sixteen (16) hours of air monitoring field equipment training by a certified air sampling professional;

C. An asbestos inspector is an individual who collects and assimilates information used to determine the presence and condition of asbestos-containing material in a building or other air contaminant source. An asbestos inspector must hold a diploma from a fully-approved EPA or Missouri-accredited AHERA inspector course and a high school diploma or its equivalent;

D. An AHERA asbestos management planner is an individual who, under AHERA, reviews the results of inspections, reinspections, or assessments and writes recommendations for appropriate response actions. An AHERA asbestos management planner must hold diplomas from a fully-approved EPA or Missouri-accredited AHERA inspector course and a fully approved EPA or Missouri-accredited management planner course. The individual must also hold a high school diploma or its equivalent;

E. An abatement project designer is an individual who designs or plans asbestos abatement. An abatement project designer must— *[hold a diploma from a fully-approved EPA or Missouri-accredited project designer course, must have an engineering or industrial hygiene degree, and must have working knowledge of heating, ventilation and air conditioning systems or an abatement project designer must hold a high school diploma or its equivalent, must have a diploma from a fully-approved EPA or Missouri-accredited project designer course, and must have at least four (4) years experience in building design, heating, ventilation and air conditioning systems.]*

(I) Hold a diploma from a fully-approved EPA or Missouri-accredited project designer course;

(II) Have an engineering or industrial hygiene degree;

(III) Have working knowledge of heating, ventilation, and air conditioning systems;

(IV) Hold a high school diploma or its equivalent;

(V) Have a diploma from a fully-approved EPA or Missouri-accredited project designer course; and

(VI) Have at least four (4) years experience in building design, heating, ventilation, and air conditioning systems.

The department may require individuals with professional degrees for complex asbestos projects;

F. An asbestos supervisor is an individual who directs, controls, or supervises others in asbestos projects. An asbestos supervisor shall—

(I) *[h/]* Hold a diploma from a fully-approved EPA or Missouri-accredited AHERA abatement contractor/supervisor course; and

(II) *[h/]* Have one (1) year full-time prior experience in asbestos abatement work or in general construction work; and

G. An asbestos abatement worker is an individual who engages in asbestos projects. An asbestos abatement worker shall—

(I) *[h/]* Hold a diploma from a fully-approved EPA; or

(II) Missouri-accredited AHERA worker training course.

4. Certification may be denied for any one (1) or more of the following:

A. Failure to meet minimum training, education, or experience requirements;

B. Providing false or misleading statements in the application;

C. Failure to submit a complete application;

D. Three (3) or more citations or violations of existing asbestos regulations within the last two (2) years;

E. Three (3) or more violations of 29 CFR 1910.1001 or 29 CFR 1926.1101 within the last two (2) years. 29 CFR 1910.1001 and 29 CFR 1926.1101 promulgated as of July 1, 2018 are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;

F. Fraud or failure to disclose facts relevant to their application;

G. Permitting the duplication or use by another of the individual's certificate; and

H. Any other information which may affect the applicant's ability to appropriately perform asbestos work.

(B) Recertification.

1. All asbestos inspectors, management planners, abatement project designers, supervisors, and workers shall pass a Missouri-accredited annual AHERA refresher course and examination in their specialty area. The refresher course must be specific to the individual's initial certification and must meet the requirements of the EPA's AHERA Model Accreditation Plan 40 CFR part 763 promulgated as of July 1, 2018 and hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. In the case of significant changes in Missouri statutes or rules the department will require individuals to retake a revised version of the Missouri asbestos examination prior to being recertified.

(C) Certification/Recertification Fees. The department shall assess—

1. A seventy-five dollar (\$75) application fee for each individual applying for certification except for asbestos **abatement** workers. Effective January 1, 2017, the application fee is one hundred dollars (\$100);

2. A twenty-five dollar (\$25) application fee for each asbestos **abatement** worker. Effective January 1, 2017, the application fee is forty dollars (\$40);

3. No application fees for asbestos air sampling technicians;

4. A twenty-five dollar (\$25) fee for each Missouri asbestos examination;

5. A five dollar (\$5) renewal fee for each renewal certificate for asbestos **abatement** workers. Effective January 1, 2017, the renewal fee is twenty dollars (\$20); and

6. A five dollar (\$5) renewal fee for each renewal certificate for non-asbestos **abatement** workers. Effective January 1, 2017, the renewal fee is fifty dollars (\$50).

(D) Accreditation of Training Programs. To be a training provider for the purposes of this rule, a person shall apply for accreditation to the department and comply with EPA's AHERA Model Accreditation Plan 40 CFR part 763, Appendix C, subpart E **as incorporated by reference in paragraph (3)(B)1. of this rule.** Business entities that are determined by the department to fall under subsection (3)(E) of this rule are exempt from this section.

1. Training providers shall apply for approval of a training course(s) as provided in section 643.228, RSMo, on the department-supplied Asbestos Training Course Accreditation form.

A. In addition to the written application, the training provider *[shall]* **is to** present each initial course for the department to audit. The department may deny accreditation of a course if the applicant fails to provide information required within sixty (60) days of receipt of written notice that the application is deficient. All training providers must apply for reaccreditation biennially.

B. Training providers must submit documentation that their courses meet the criteria set forth in this rule. Out-of-state providers must submit documentation of biennial audit by an accrediting agency with a written verification that Missouri rules are addressed in the audited course.

C. Providers must pay an accreditation fee of one thousand dollars (\$1,000) per course category prior to issuance or renewal of an accreditation. No person *[shall]* **is to** pay more than three thousand dollars (\$3,000) for all course categories for which accreditation is requested at the same time.

2. At least two (2) weeks prior to the course starting date, training providers shall notify the department of their intent to offer initial training and refresher courses. The notification shall include the course title, starting date, the location at which the course will take place, and a list of the course instructors.

3. All training courses shall have a ratio of students to instructors in hands-on demonstrations that shall not exceed ten-to-one (10:1).

4. Instructor qualifications.

A. An individual must be Missouri-certified in a specialty area before they will be allowed to teach in that specialty area, except that instructors certified as supervisors may also instruct a worker course.

B. An individual with experience and education in industrial hygiene shall teach the sections of the training courses concerning the performance and evaluation of air monitoring programs and the design and implementation of respiratory protection programs. The department does not require that the instructor hold a degree in industrial hygiene, but the individual must provide documentation and written explanation of experience and training.

C. An individual who is a Missouri-certified supervisor, and who has sufficient training and work experience to effectively present the assigned subject matter, shall teach the hands-on training sections of all courses.

D. An individual who teaches the portions of the project designer's course involving heating, ventilation, and air conditioning

(HVAC) systems, must—

(I) *[b/Be]* a licensed architect / or a licensed engineer; or

(II) *[m/Must]* provide documentation of training and at least five (5) years' experience in the field.

5. The course provider must administer and monitor all course examinations. The course provider assumes responsibility for the security of exam contents and shall ensure that the participant passes the exam on his/her own merit. Minimum security measures for the written exams include ample space between participants, absence of written materials other than the examination and supervision of the exam by course provider.

6. When the provider offers training on short notice, the training provider shall notify the department as soon as possible but no later than two (2) days prior to commencement of that training.

7. When the provider cancels the course, the training provider should notify the department at the same time s/he notifies course participants, and shall follow-up with written notification.

8. When rules, policies, or procedures change, the training provider must update the initial and refresher courses. The training provider must notify the department as soon as s/he makes the changes.

9. The department may withdraw accreditation from providers who fail to accurately portray their Missouri accreditation in advertisements, who fail to ensure security of examinations, who fail to ensure that each student passes the exam on his/her own merit, or who issue improper certificates.

10. Training course providers must notify the department of any changes in training course content or instructors. Training course providers must submit resumés of all new instructors to the department as soon as substitutions or additions are made.

11. The department may revoke or suspend accreditation of any course subject to this rule if alterations in the course cause it to fail the department's accreditation criteria.

12. Training providers shall have thirty (30) days to correct identified deficiencies in training course(s) before the department revokes accreditation.

(E) Business Exemptions. The department may exempt a person from registration, certification, and certain notification requirements provided the person conducts asbestos projects solely at the person's own place(s) of business as part of normal operations in the facility and the person is also subject to the requirements and applicable standards of the EPA and United States Occupational Safety and Health Administration (OSHA) 29 CFR 1926.1101 **as incorporated by reference in subparagraph (3)(A)4.E. of this rule.** The person shall submit an application for exemption to the department on the department-supplied form. This exemption shall not apply to asbestos **abatement** contractors, to those subject to the requirements of AHERA, and to those persons who provide a service to the public in their place(s) of business as the economic foundation of the facility. These shall include, but not be limited to, child daycare centers, restaurants, nursing homes, retail outlets, medical care facilities, hotels, and theaters. The department shall review the exemption application within one hundred eighty (180) days. State-exempted business entities shall comply with all federal air sampling requirements for planned renovation operations.

1. Training course requirements.

A. The person shall fill out the department-supplied form describing training provided to employees and an explanation of how the training meets the applicable OSHA and EPA standards.

B. The person shall notify the department two (2) weeks before the person conducts training programs. This notification shall include the course title, start-up date, location, and course instructor(s).

C. If the person cancels the course, the person shall notify the department at the same time the person notifies course participants / . *The person shall* **and** follow up with written notification to the department.

D. When regulations, policies, or procedures change, the

person must update the initial and refresher courses/. *The person must/ and* notify the department as soon as the person makes the changes.

E. When the person conducts hands-on training, the ratio of students to instructors shall not exceed ten-to-one (10:1).

F. The person must allow representative(s) of the department to attend the training course for purposes of determining compliance with this rule.

G. Exempted persons shall submit to the director changes in curricula, instructors, and other significant revisions to the training program as they occur/. *The person must/ and* submit resumes of all new instructors to the department as soon as substitutions or additions are made.

H. The department may revoke or suspend an exemption if on-site inspection indicates that the training fails the exemption requirements. These include, but are not limited to, a decrease in course length, a change in course content or use of different instructors than those indicated in the application. The department, in writing, shall notify the person responsible for the training of deficiencies. The person shall have thirty (30) days to correct the deficiencies before the department issues final written notice of exemption withdrawal.

2. If the department finds an exemption application deficient, the person has sixty (60) days to correct the deficiencies. If, within sixty (60) days, the person fails to provide the department with the required information, the department may deny approval of the exemption.

3. The person shall submit a fee of two hundred fifty dollars (\$250) with the application for exemption. This is a nonrefundable one (1)-time fee.

[(G) After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.]

AUTHORITY: section 643.225, RSMo [Supp. 2013] 2016. Original rule filed Dec. 14, 1992, effective Sept. 9, 1993. For intervening history, please consult the Code of State Regulations. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.280 Compliance Monitoring Usage. The commission proposes to amend sections (2) and (3), and subsection (5)(A). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule is necessary to meet the federal Clean Air Act requirements for alternate compliance certification methods and to enhance the enforceability of the state implementation plan. This rule does this by establishing a methodology for identifying acceptable testing, monitoring, or information. The purpose of this amendment is to update the acceptable monitoring methods for compliance certification, correctly incorporate reference material, and remove one (1) unnecessary restrictive word. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction review and related comments.

PURPOSE: This rule is necessary to meet the federal Clean Air Act requirements for alternate compliance certification methods and to enhance the enforceability of the state implementation plan. This rule does this by establishing a methodology for identifying acceptable testing, monitoring, or information.

(2) Definitions. *[Terms and phrases used in this rule may be found in 10 CSR 10-6.020 Definitions and Common Reference Tables.] (Not Applicable)*

(3) General Provisions.

(A) Compliance Certifications. Regardless of any other provision in any plan approved by the administrator, for the purpose of submission of compliance certificates the owner or operator *[is not prohibited from using]* may use the following in addition to any specified compliance methods:

1. Monitoring methods outlined in 40 CFR *[part]* 64 **promulgated as of July 1, 2018 is hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;**

2. Monitoring method(s) approved for the source pursuant to 10 CSR 10-6.065 Operating Permits, and incorporated into an operating permit; and

3. Any other monitoring methods approved by the director.

(B) Enforcement. Regardless of any other provision in the state implementation plan, any credible evidence may be used for the purpose of establishing whether a source or facility has violated or is in violation of any such plan or other applicable requirement. Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at a source:

1. Monitoring methods outlined in 40 CFR *[part]* 64~~;~~, **as incorporated by reference in paragraph (3)(A)1. of this rule.**

2. A monitoring method approved for the source pursuant to 10 CSR 10-6.065 Operating Permits, and incorporated into an operating permit; and

3. Compliance test methods specified in *[the]* this rule cited as the authority for the emission limitations.

(5) Test Methods. The following testing, monitoring, or information gathering methods are presumptively credible testing, monitoring, or information gathering methods:

(A) Applicable monitoring or testing methods, cited in: 10 CSR

10-6.030 Sampling Methods for Air Pollution Sources; 10 CSR 10-6.040 Reference Methods; 10 CSR 10-6.070 New Source Performance Standards; **10 CSR 10-6.075 Maximum Achievable Control Technology Regulations**; and 10 CSR 10-6.080 Emission Standards for Hazardous Air Pollutants; or

AUTHORITY: section 643.050, RSMo [2000] 2016. Original rule filed June 2, 1994, effective Dec. 30, 1994. Amended: Filed July 12, 2001, effective March 30, 2002. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.300 Conformity of General Federal Actions to State Implementation Plans. The commission proposes to amend the rule purpose, subsections (1)(A)–(1)(C), (1)(K), (3)(A), (3)(E), (3)(F), (3)(I), (3)(J), (3)(L), (4)(C), and section (2). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words. This rulemaking will also add definitions specific to this rule, remove references to a rule that is being rescinded, and make other clarifying changes. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03.

PURPOSE: This rule implements section 176(c) of the Clean Air Act, as amended (42 U.S.C. [7401–7671q.] 7506(c)), and regulations under 40 CFR 93, [S]subpart B, with respect to the conformity of general federal actions to the applicable implementation plan. Under those authorities, no department, agency, or instrumentality of the

federal government [shall] may engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan. This rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such actions to the applicable implementation plan. This rule applies to all areas in the state of Missouri [which are] designated as nonattainment or maintenance for any criteria pollutant or standard for which there is a national ambient air quality standard.

(1) Applicability.

(A) Conformity determinations for federal actions related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of [10 CSR 10-2.390 and] 10 CSR 10-5.480 in lieu of the procedures set forth in this rule.

(B) For federal actions not covered by subsection (1)(A) of this rule, a conformity determination is required for each criteria pollutant or precursor where the total of direct and indirect emissions of the criteria pollutant or precursor in a nonattainment or maintenance area caused by a federal action would equal or exceed any of the *de minimis* rates in paragraph (1)(B)1. or paragraph (1)(B)2. of this rule.

1. For purposes of subsection (1)(B) of this rule, the following rates apply in nonattainment areas (NAAs):

	Tons/Year
Ozone (VOC or NO _x):	
Serious NAAs	50
Severe NAAs	25
Extreme NAAs	10
Other ozone NAAs outside an ozone transport region	100
Other ozone NAAs inside an ozone transport region:	
VOC	50
NO _x	100
Carbon monoxide: All NAAs	100
SO ₂ or NO ₂ : All NAAs	100
PM ₁₀ :	
Moderate NAAs	100
Serious NAAs	70
PM _{2.5} :	
Direct emissions	100
SO ₂	100
NO _x (unless determined not to be significant precursor)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb: All NAAs	25

2. For purposes of subsection (1)(B) of this rule, the following rates apply in maintenance areas:

	Tons/Year
Ozone (NO _x , SO ₂ , or NO ₂):	
All Maintenance Areas	100
Ozone (VOCs):	
Maintenance areas inside an ozone transport region	50
Maintenance areas outside an ozone transport region	100
Carbon monoxide: All Maintenance Areas	100
PM ₁₀ : All Maintenance Areas	100
PM _{2.5} :	
Direct emissions	100
SO ₂	100
NO _x (unless determined not to be significant precursor)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb: All Maintenance Areas	25

(C) The requirements of this rule [shall] do not apply to the following federal actions[—]:

1. Actions where the total of direct and indirect emissions are below the emissions levels specified in subsection (1)(B) of this rule;
2. The following actions which would result in no emissions

increase or an increase in emissions that is clearly **below the *de minimis* levels identified in subsection (1)(B) of this rule:**

- A. Judicial and legislative proceedings;
- B. Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted;
- C. Rulemaking and policy development and issuance;
- D. Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities;
- E. Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel;
- F. Administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties, and fees;
- G. Routine, recurring transportation of material and personnel;
- H. Routine movement of mobile assets, such as ships and aircraft, in-home port reassignments, and stations (when no new support facilities or personnel are *[required]* necessary) to perform as operational groups or for repair or overhaul;
- I. Maintenance dredging and debris disposal where no new depths are *[required]* necessary, applicable permits are secured, and disposal will be at an approved disposal site;
- J. *[Actions w/*With respect to existing structures, properties, facilities, and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands; actions such as relocation of personnel, disposition of federally-owned existing structures, properties, facilities, and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership or conservatorship authority, assistance in purchasing structures, and the production of coins and currency;
- K. Granting of leases, licenses such as for exports and trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted;
- L. Planning, studies, and provision of technical assistance;
- M. Routine operation of facilities, mobile assets, and equipment;
- N. Transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer;
- O. Designation of empowerment zones, enterprise communities, or viticultural areas;
- P. Actions by any of the federal banking agencies or the federal reserve banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency, or instrumentality of the United States;
- Q. Actions by the board of governors of the Federal Reserve System or any federal reserve bank to effect monetary or exchange rate policy;
- R. Actions that implement a foreign-affairs function of the United States;
- S. Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties;
- T. Transfers of real property, including land, facilities, and related personal property from a federal entity to another federal entity and assignments of real property, including land, facilities, and

related personal property from a federal entity to another federal entity for subsequent deeding to eligible applicants;

- U. Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States; and
- V. Air traffic control activities and adopting approach, departure, and enroute procedures for aircraft operations above the mixing height specified in the applicable State Implementation Plan (SIP) or Tribal Implementation Plan (TIP). Where the applicable SIP or TIP does not specify a mixing height, the federal agency can use the three thousand feet (3,000') above ground level as a default mixing height, unless the agency demonstrates that use of a different mixing height is appropriate because the change in emissions at and above that height caused by the federal action is **below the *de minimis* levels identified in subsection (1)(B) of this rule;**

3. Actions where the emissions are not reasonably foreseeable, such as the following:

A. Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level; and

B. Electric power marketing activities that involve the acquisition, sale, and transmission of electric energy; and

4. Actions which implement a decision to conduct or carry out a program that has been found to conform to the applicable implementation plan, such as prescribed burning actions which are consistent with a land management plan that has been found to conform to the applicable implementation plan.

(K) The provisions of this rule *[shall]* apply in all nonattainment and maintenance areas except conformity requirements for newly-designated nonattainment areas are not applicable until one (1) year after the effective date of the final nonattainment designation for each National Ambient Air Quality Standards (NAAQS) and pollutant in accordance with section 176(c)(6) of the Act.

(2) Definitions. *[Terms used in this rule shall have the meaning given to them by the CAA, EPA regulations, and 10 CSR 10-6.020, in that order of priority.]*

(A) **Affected federal land manager**—The federal agency or the federal official charged with direct responsibility for management of an area designated as Class I under the Clean Air Act (42 U.S.C. 7472) that is located within one hundred kilometers (100 km) of the proposed federal action.

(B) **Applicability analysis**—The process of determining if the federal action must be supported by a conformity determination.

(C) **Applicable implementation plan or applicable state implementation plan (SIP)**—The portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110(k) of the Act, a federal implementation plan promulgated under section 110(c) of the Act, or a plan promulgated or approved pursuant to section 301(d) of the Act (tribal implementation plan) and which implements the relevant requirements of the Act.

(D) **Area-wide air quality modeling analysis**—An assessment on a scale that includes the entire nonattainment or maintenance area using an air quality dispersion model or photochemical grid model to determine the effects of emissions on air quality; for example, an assessment using the U.S. Environmental Protection Agency's community multiscale air quality (CMAQ) modeling system.

(E) **Cause or contribute to a new violation**—A federal action that—

1. Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the federal action were not taken; or

2. Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a

nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

(F) Caused by, as used in the terms direct emissions and indirect emissions—Emissions that would not otherwise occur in the absence of the federal action.

(G) Confidential business information—Information that has been determined by a federal agency, in accordance with its applicable regulations, to be a trade secret, or commercial or financial information obtained from a person and privileged or confidential and is exempt from required disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

(H) Conformity determination—The evaluation (made after an applicability analysis is completed) that a federal action conforms to the applicable implementation plan and meets the requirements of this rule.

(I) Conformity evaluation—The entire process from the applicability analysis through the conformity determination that is used to demonstrate that the federal action conforms to the requirements of this rule.

(J) Continuous program to implement—The federal agency has started the action identified in the plan and does not stop the actions for more than an eighteen (18)-month period, unless it can demonstrate that such a stoppage was included in the original plan.

(K) Criteria pollutant or standard—Any pollutants for which there is established a National Ambient Air Quality Standard at 40 CFR 50.

(L) Direct emissions—Those emissions of a criteria pollutant or its precursors that are caused or initiated by the federal action and originate in a nonattainment or maintenance area and occur at the same time and place as the action and are reasonably foreseeable.

(M) Emergency—A situation where extremely quick action on the part of the federal agencies involved is needed and where the timing of such federal activities makes it impractical to meet the requirements of this rule, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

(N) Emission inventory—A listing of information on the location, type of source, type and quantity of pollutant emitted, as well as other parameters of the emissions.

(O) Emissions budgets—Those portions of the total allowable emissions defined in a U.S. Environmental Protection Agency-approved revision to the applicable implementation plan for a certain date for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, specifically allocated by the applicable implementation plan to mobile sources, to any stationary source or class of stationary sources, to any federal action or class of action, to any class of area sources, or to any subcategory of the emissions inventory. The allocation system must be specific enough to assure meeting the criteria of section 176(c)(1)(B) of the Clean Air Act. An emissions budget may be expressed in terms of an annual period, a daily period, or other period established in the applicable implementation plan.

(P) Offsets (Emission offsets)—Emission reductions which are quantifiable, consistent with the attainment and reasonable further progress demonstrations of the applicable implementation plan, surplus to reductions required by, and credited to, other applicable implementation plan provisions, enforceable under both state and federal law, and permanent within the time frame specified by the program.

(Q) Federal action—Any activity engaged in by a department, agency, or instrumentality of the federal government, or any activity that a department, agency, or instrumentality of the federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects devel-

oped, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity is the part, portion, or phase of the nonfederal undertaking that requires the federal permit, license, or approval.

(R) Federal agency—A federal department, agency, or instrumentality of the federal government.

(S) Increase the frequency or severity of any existing violation of any standard in any area—To cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.

(T) Indirect emissions—Those emissions of a criteria pollutant or its precursors—

1. That are caused or initiated by the federal action and originate in the same nonattainment or maintenance area but may occur at a different time or place;

2. That are reasonably foreseeable; and

3. That the federal agency can practically control and will maintain control due to a continuing program responsibility of the federal agency, including, but not limited to—

A. Traffic on or to, or stimulated or accommodated by, a proposed facility which is related to increases or other changes in the scale or timing of operations of such facility;

B. Emissions related to the activities of employees of contractors or federal employees;

C. Emissions related to employee commutation and similar programs to increase average vehicle occupancy imposed on all employers of a certain size in the locality; or

D. Emissions related to the use of federal facilities under lease or temporary permit. For the purposes of this definition, even if a federal licensing, rulemaking, or other approving action is a required initial step for a subsequent activity that causes emissions, such initial steps do not mean that a federal agency can practically control any resulting emissions.

(U) Local air quality modeling analysis—An assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadways on a federal facility, which uses an air quality dispersion model (e.g., Industrial Source Complex Model or Emission and Dispersion Model System) to determine the effects of emissions on air quality.

(V) Maintenance area—An area that was designated as nonattainment and has been re-designated in 40 CFR 81 to attainment, meeting the provisions of section 107(d)(3)(E) of the Act and has a maintenance plan approved under section 175A of the Act.

(W) Maintenance plan—A revision to the applicable Missouri State Implementation Plan, meeting the requirements of section 175A of the Clean Air Act.

(X) Metropolitan planning organization (MPO)—The policy board of an organization created as a result of the designation process in 23 U.S.C. 134(d) and in 49 U.S.C. 5303. It is the forum for cooperative transportation decision making and is responsible for conducting the planning required under section 174 of the Clean Air Act.

(Y) Milestone—The meaning given in sections 182(g)(1) and 189(c)(1) of the Clean Air Act. It consists of an emissions level and the date on which it is required to be achieved.

(Z) Mitigation measure—Any method of reducing emissions of the pollutant or its precursor taken at the location of the federal action and used to reduce the impact of the emissions of that pollutant caused by the action.

(AA) National Ambient Air Quality Standards (NAAQS)—Those standards established pursuant to section 109 of the Act and defined by 40 CFR 50. It includes standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂) or oxides of

nitrogen (NO_x), ozone, particulate matter (PM₁₀ and PM_{2.5}), and sulfur dioxide (SO₂) or sulfur oxides (SO_x).

(BB) National Environmental Policy Act (NEPA)—The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

(CC) Nonattainment area (NAA)—Any geographic area of the United States which has been designated as nonattainment under section 107 of the Clean Air Act and described in 40 CFR 81.

(DD) Precursors of a criteria pollutant are—

1. For ozone, nitrogen oxides (NO_x), unless an area is exempted from NO_x requirements under section 182(f) of the Clean Air Act, and volatile organic compounds (VOCs);

2. For PM₁₀, those pollutants described in the PM₁₀ nonattainment area applicable state implementation plan as significant contributors to the PM₁₀ levels; and

3. For PM_{2.5}—

A. Sulfur dioxide (SO₂) in all PM_{2.5} nonattainment and maintenance areas;

B. NO_x in all PM_{2.5} nonattainment and maintenance areas unless both the state and U.S. Environmental Protection Agency (EPA) determine that it is not a significant precursor; and

C. VOC and ammonia (NH₃) only in PM_{2.5} nonattainment or maintenance areas where either the state or EPA determines that they are significant precursors.

(EE) Reasonably foreseeable emissions—Projected future direct and indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable, as described and documented by the federal agency based on its own information and after reviewing any information presented to the federal agency.

(FF) Regional water or wastewater projects—Include construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

(GG) Restricted information—Information that is privileged or that is otherwise protected from disclosure pursuant to applicable statutes, executive orders, or regulations. Such information includes, but is not limited to, classified national security information, protected critical infrastructure information, sensitive security information, and proprietary business information.

(HH) Total of direct and indirect emissions—The sum of direct and indirect emissions increases and decreases caused by the federal action; that is, the net emissions considering all direct and indirect emissions. Any emissions decreases used to reduce such total shall have already occurred or shall be enforceable under state and federal law. The portion of emissions which are exempt or presumed to conform under subsection (3)(C), (D), (E), or (F) of this rule are not included in the total of direct and indirect emissions, except as provided in subsection (3)(J) of this rule. The total of direct and indirect emissions includes emissions of criteria pollutants and emissions of precursors of criteria pollutants. The segmentation of projects for conformity analyses when emissions are reasonably foreseeable is not permitted by this rule.

(II) Tribal implementation plan (TIP)—A plan to implement the national ambient air quality standards adopted and submitted by a federally recognized Indian tribal government determined to be eligible under 40 CFR 49.9 and the plan has been approved by the U.S. Environmental Protection Agency.

(JJ) Definitions of certain terms not otherwise described or defined in this rule may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Prohibition.

1. No department, agency, or instrumentality of the federal government [shall] may engage in, support in any way, or provide financial assistance for, license or permit, or approve any activity which

does not conform to an applicable implementation plan.

2. A federal agency must make a determination that a federal action conforms to the applicable implementation plan in accordance with the requirements of this rule before the action is taken.

3. Notwithstanding any provision of this rule, a determination that an action is in conformity with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the National Environmental Policy Act (NEPA), or the CAA.

4. If an action would result in emissions originating in more than one (1) nonattainment or maintenance area, the conformity must be evaluated for each area separately.

(E) Criteria for Determining Conformity of General Federal Actions.

1. An action required under section (1) of this rule, to have a conformity determination for a specific pollutant, will be determined to conform to the applicable implementation plan if, for each pollutant that exceeds the rates in subsection (1)(B) of this rule, or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of paragraph (3)(E)3. of this rule, and meets any of the following requirements:

A. For any criteria pollutant or precursor, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP attainment or maintenance demonstration or reasonable further progress milestone or in a facility-wide emission budget included in a SIP in accordance with subsection (3)(H) of this rule;

B. For precursors of ozone, nitrogen dioxide, or particulate matter (PM), the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the federal action) through a revision to the applicable SIP or a similarly-enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant;

C. For any directly-emitted criteria pollutant, the total of direct and indirect emissions from the action meet the requirements—

(I) Specified in paragraph (3)(E)2. of this rule, based on area-wide air quality modeling analysis and local air quality modeling analysis; or

(II) Specified in subparagraph (3)(E)1.E. of this rule and, for local air quality modeling analysis, the requirement of paragraph (3)(E)2. of this rule;

D. For carbon monoxide or directly emitted PM—

(I) Where the department determines that an area-wide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (3)(E)2. of this rule, based on local air quality modeling analysis; or

(II) Where the department determines that an area-wide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (3)(E)2. of this rule, based on area-wide modeling, or meet the requirements of subparagraph (3)(E)1.E. of this rule; or

E. For ozone or nitrogen dioxide, and for purposes of parts (3)(E)1.C.(II) and (3)(E)1.D.(II) of this rule, each portion of the action or the action as a whole meets any of the following requirements:

(I) Where EPA has approved a revision to the applicable implementation plan after the area was designated as nonattainment and the state or tribe makes a determination as provided in subpart (3)(E)1.E.(I)(a) of this rule or where the state or tribe makes a commitment as provided in subpart (3)(E)1.E.(I)(b) of this rule.

(a) The total of direct and indirect emissions from the

action (or portion thereof) is determined and documented by the department to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budgets specified in the applicable SIP.

(b) The total of direct and indirect emissions from the action (or portion thereof) is determined by the department to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable implementation plan and the department makes a written commitment to EPA which includes the following:

I. A specific schedule for adoption and submittal of a revision to the applicable implementation plan which would achieve the needed emission reductions prior to the time emissions from the federal action would occur;

II. Identification of specific measures for incorporation into the applicable implementation plan which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable implementation plan;

III. A demonstration that all existing applicable implementation plan requirements are being implemented in the area for the pollutants affected by the federal action, and that local authority to implement additional requirements has been fully pursued;

IV. A determination that the responsible federal agencies have required all reasonable mitigation measures associated with their action; and

V. Written documentation including all air quality analyses supporting the conformity determination.

(c) Where a federal agency made a conformity determination based on a state's or tribe's commitment under subpart (3)(E)1.E.(I)(b) of this rule and the state has submitted a SIP or TIP to EPA covering the time period during which the emissions will occur or is scheduled to submit such a SIP or TIP within eighteen (18) months of the conformity determination, the state commitment is automatically deemed a call for a SIP or TIP revision by EPA under section 110(k)(5) of the CAA, effective on the date of the federal conformity determination and requiring response within eighteen (18) months or any shorter time within which the state or tribe commits to revise the applicable SIP;

(d) Where a federal agency made a conformity determination based on a state or tribal commitment under subpart (3)(E)1.E.(I)(b) of this rule and the state or tribe has not submitted a SIP covering the time period when the emissions will occur or is not scheduled to submit such a SIP within eighteen (18) months of the conformity determination, the state or tribe must, within eighteen (18) months, submit to EPA a revision to the existing SIP committing to include the emissions in the future SIP revision;

(II) The action (or portion thereof), as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable implementation plan under *[10 CSR 10-2.390 or] 10 CSR 10-5.480*;

(III) The action (or portion thereof) fully offsets its emissions within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violations in the past, in the area with the federal action) through a revision to the applicable SIP or an equally-enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

(IV) Where EPA has not approved a revision to the relevant SIP since the area was designated or reclassified, the total of direct and indirect emissions from the action for the future years (described in paragraph (3)(F)4. of this rule) do not increase emissions with respect to the baseline emissions, and—

(a) The baseline emissions reflect the historical activity

levels that occurred in the geographic area affected by the proposed federal action during—

I. The most current calendar year with a complete emission inventory available before an area is designated unless EPA sets another year;

II. The emission budget in the applicable SIP; or

III. The year of the baseline inventory in the PM₁₀ applicable SIP; and

(b) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in paragraph (3)(F)4. of this rule) using the historic activity levels (described in subpart (3)(E)1.E.(IV)(a) of this rule) and appropriate emission factors for the future years; or

(V) Where the action involves regional water or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

2. The area-wide and local air quality modeling analyses must—

A. Meet the requirements in subsection (3)(F) of this rule; and

B. Show that the action does not—

(I) Cause or contribute to any new violation of any standard in any area; or

(II) Increase the frequency or severity of any existing violation of any standard in any area.

3. Notwithstanding any other requirements of this section, an action subject to this rule *[may]* **will** not be determined to conform to the applicable implementation plan unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable implementation plan, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements, and such action is otherwise in compliance with all relevant requirements of the applicable implementation plan.

4. Any analyses *[required]* **conducted** under this section must be completed, and any mitigation requirements necessary for a finding of conformity must be identified before the determination of conformity is made.

(F) Procedures for Conformity Determinations of General Federal Actions.

1. The analyses *[required]* **conducted** under this rule must be based on the latest planning assumptions.

A. All planning assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates, where available.

B. Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the area.

2. The analyses *[required]* **conducted** under this rule must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate, the federal agency may obtain written approval from the appropriate EPA regional administrator for a modification or substitution, of another technique on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program.

A. For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and made available for use in the preparation or revision of SIPs in the state must be used for the conformity analysis as specified below—

(I) The EPA must publish in the *Federal Register* a notice of availability of any new motor vehicle emissions model; and

(II) A grace period of three (3) months *[shall apply]* **applies** during which the motor vehicle emissions model previously specified by EPA as the most current version may be used unless EPA

announces a longer grace period in the *Federal Register*. Conformity analyses for which the analysis was begun during the grace period or no more than three (3) years before the *Federal Register* notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

B. For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors" (AP-42, <http://www.epa.gov/ttn/chiefs/efpac>) must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

3. The air quality modeling analyses [required] conducted under this rule must be based on the applicable air quality models, databases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models" (40 CFR 51, Appendix W), unless—

A. The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific federal agency program; and

B. Written approval of the EPA regional administrator is obtained for any modification or substitution.

4. The analyses [required] conducted under this rule must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

A. The attainment year specified in the SIP or, if the SIP does not specify an attainment year, the latest attainment year possible under the Act;

B. The last year for which emissions are projected in the maintenance plan;

C. The year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and

D. Any year for which the applicable SIP specifies an emissions budget.

(I) Emissions Beyond the Time Period Covered by the SIP. If a federal action would result in total direct and indirect emissions above the applicable thresholds which would be emitted beyond the time period covered by the SIP, the federal agency can—

1. Demonstrate conformity with the last emission budget in the SIP; or

2. Request the state or tribe to adopt an emissions budget for the action for inclusion in the SIP. The state or tribe must submit a SIP or TIP revision to EPA within eighteen (18) months either including the emissions in the existing SIP or establishing an enforceable commitment to include the emissions in future SIP revisions based on the latest planning assumptions at the time of the SIP revision. No such commitment by a state or tribe [shall] may restrict a state's or tribe's ability to require Reasonably Available Control Technology (RACT), Reasonably Available Control Measures (RACM), or any other control measures within the state's or tribe's authority to ensure timely attainment of the NAAQS.

(J) Timing of Offsets and Mitigation Measures.

1. The emissions reductions from an offset or mitigation measure used to demonstrate conformity must occur during the same calendar year as the emission increases from the action except as provided in paragraph (3)(J)2. of this rule.

2. The state or tribe may approve emissions reductions in other years provided—

A. The reductions are greater than the emission increases by the following ratios:

- | | |
|-----------------------------------|--------|
| (I) Extreme nonattainment areas | 1.5:1 |
| (II) Severe nonattainment areas | 1.3:1 |
| (III) Serious nonattainment areas | 1.2:1 |
| (IV) Moderate nonattainment areas | 1.15:1 |
| (V) All other areas | 1.1:1 |

B. The time period for completing the emissions reductions [must] cannot exceed twice the period of the emissions; and

C. The offset or mitigation measure with emissions reductions in another year will not—

(I) Cause or contribute to a new violation of any air quality standard;

(II) Increase the frequency or severity of any existing violation of any air quality standard; or

(III) Delay the timely attainment of any standard or any interim emissions reductions or other milestones in any area.

3. The approval by the state or tribe of an offset or mitigation measure with emissions reductions in another year does not relieve the state or tribe of any obligation to meet any SIP or CAA milestone or deadline. The approval of an alternate schedule for mitigation measures is at the discretion of the state or tribe, and [they] are [not required] under no obligation to approve an alternate schedule.

(L) Early Emission Reduction Credit Programs at Federal Facilities and Installations Subject to Federal Oversight.

1. Federal facilities and installations subject to federal oversight can, with the approval of the state or tribal agency responsible for the SIP or TIP in that area, create an early emissions reductions credit program. The federal agency can create the emission reduction credits in accordance with the requirements in paragraph (3)(L)2. of this rule and can use them in accordance with paragraph (3)(L)3. of this rule.

2. Creation of emission reduction credits.

A. Emissions reductions must be quantifiable through the use of standard emission factors or measurement techniques. If non-standard factors or techniques to quantify the emissions reductions are used, the federal agency must receive approval from the state or tribal agency responsible for the implementation of the SIP or TIP and from EPA's regional office. The emission reduction credits do not have to be quantified before the reduction strategy is implemented but must be quantified before the credits are used in the general conformity evaluation.

B. The emission reduction methods must be consistent with the applicable SIP or TIP attainment and reasonable further progress demonstrations.

C. The emissions reductions cannot be required by or credited to other applicable SIP or TIP provisions.

D. Both the state or tribe and federal air quality agencies must be able to take legal action to ensure continued implementation of the emission reduction strategy. In addition, private citizens must also be able to initiate action to ensure compliance with the control requirement.

E. The emissions reductions must be permanent or [the] have a specific time frame for the reductions [must be specified].

F. The federal agency must document the emissions reductions and provide a copy of the document to the state or tribal air quality agency and the EPA regional office for review. The documentation must include a detailed description of the emission reduction strategy and a discussion of how it meets the requirements of subparagraphs (3)(L)2.A. through (3)(L)2.E. of this rule.

3. Use of emission reduction credits. The emission reduction credits created in accordance with paragraph (3)(L)2. of this rule can be used, subject to the following limitations, to reduce the emissions increase from a federal action at the facility for the conformity evaluation.

A. If the technique used to create the emission reduction is implemented at the same facility as the federal action and could have occurred in conjunction with the federal action, then the credits can be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation [as required in] under section (1) of this rule and as offsets or mitigation measures [required by] under subsection (3)(E) of this rule.

B. If the technique used to create the emission reduction is not implemented at the same facility as the federal action or could not have occurred in conjunction with the federal action, then the

credits cannot be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation [as required in] under section (1) of this rule, but can be used to offset or mitigate the emissions [as required by] under subsection (3)(E) of this rule.

C. Emissions reductions credits must be used in the same year in which they are generated.

D. Once the emission reduction credits are used, they cannot be used as credits for another conformity evaluation. However, unused credits from a strategy used for one (1) conformity evaluation can be used for another conformity evaluation as long as the reduction credits are not double counted.

E. Federal agencies must notify the state or tribal air quality agency responsible for the implementation of the SIP or TIP and EPA Regional Office when the emission reduction credits are being used.

(4) Reporting and Record Keeping.

(C) The draft and final conformity determination [shall] will exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information [shall be] is controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect restricted information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a restricted information annex to the determination for review by federal and state representatives who have received appropriate clearances to review the information.

AUTHORITY: section 643.050, RSMo [2000] 2016. Original rule filed Oct. 4, 1994, effective May 28, 1995. Amended: Filed Jan. 30, 1996, effective Sept. 30, 1996. Amended: Filed Feb. 9, 2007, effective Sept. 30, 2007. Amended: Filed Jan. 5, 2011, effective Aug. 30, 2011. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.380 Control of NO_x Emissions From Portland Cement Kilns. The commission proposes to amend sections (2), (4),

and (5) and subsections (3)(A) and (3)(B). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule reduces emissions of oxides of nitrogen (NO_x) to ensure compliance with the federal NO_x control plan to reduce the transport of air pollutants. The purpose of this rulemaking is to comply with Executive Order 17-03 criteria and will remove the unnecessary use of restrictive words. This rulemaking will also remove obsolete dates and add definitions specific to this rule. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03.

(2) Definitions.

(A) Clinker—The product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

(B) Director—Director of the Missouri Department of Natural Resources, or a representative designated to carry out duties as described in 643.060, RSMo.

[(B)](C) Long-dry kiln—A kiln fourteen feet (14') or larger in diameter, four hundred feet (400') or greater in length, which employs no preheating of the feed and the inlet feed to the kiln is dry.

[(C)](D) Long-wet kiln—A kiln fourteen feet (14') or larger in diameter, four hundred feet (400') or greater in length, which employs no preheating of the feed and the inlet feed to the kiln is a slurry.

[(D)](E) Low-NO_x burners—A type of cement kiln burner (a device that functions as an injector of fuel and combustion air into kiln to produce a flame that burns as close as possible to the center line of the kiln) that has a series of channels or orifices that 1) allow for the adjustment of the volume, velocity, pressure, and/or direction of the air carrying the fuel, known as primary air, into the kiln, and 2) impart high momentum and turbulence to the fuel stream to facilitate mixing of the fuel and secondary air.

[(E)](F) Mid-kiln firing—Secondary firing in kiln systems by injecting fuel at an intermediate point in the kiln system using a specially designed fuel injection mechanism for the purpose of decreasing NO_x emissions through—

1. The burning of part of the fuel at a lower temperature; and
2. The creation of reducing conditions at the point of initial combustion.

[(F)](G) Portland cement—A hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one (1) or more of the forms of calcium sulfate as an interground addition.

[(G)](H) Portland cement kiln—A system, including any solid, gaseous, or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

[(H)](I) Preheater/precalciner kiln—A kiln where the feed to the kiln system is preheated in cyclone chambers and that utilizes a second burner to provide heat for calcination of material prior to the material entering the rotary kiln which forms clinker.

[(I)](J) Preheater kiln—A kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion, which forms clinker.

[(J)](K) Recoverable fuel—Fuels that have been permitted for use for energy recovery under 10 CSR 10-6.065.

[(K)](L) Renewable fuel—Renewable energy resources that include, but are not limited to, solar (photovoltaic), wind, and biomass.

Biomass includes, but is not limited to: agricultural crops and crop waste, untreated wood and wood wastes, livestock waste, wastepaper, and organic municipal solid waste.

[(L) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.]

(3) General Provisions.

(A) *[Beginning May 1, 2007 a]*An owner or operator of any Portland cement kiln subject to this rule shall not operate the kiln during the period starting May 1 and ending September 30 of each year, unless the kiln *[installs]* **is equipped** and operates with one (1) of the following:

1. Low-NO_x burners;
2. Mid-kiln firing;
3. An alternative control technology that is approved by the *[staff]* director, and incorporated in the federally approved SIP, and is proven to achieve emission reductions of thirty percent (30%) or greater;
4. An emission rate of:*]-*

A. For long-wet kilns—6.8 pounds of NO_x per ton of clinker produced, averaged over the period from May 1 through September 30 of each year*].;*

B. For long-dry kilns—6.0 pounds of NO_x per ton of clinker produced, averaged over the period from May 1 through September 30 of each year*].;*

C. For preheater kilns—4.1 pounds of NO_x per ton of clinker produced, averaged over the period from May 1 through September 30 of each year*].;* **or**

D. For preheater/precalciner kilns—2.7 pounds of NO_x per ton of clinker produced, averaged over the period from May 1 through September 30 of each year; **or**

5. The findings of a case-by-case study committed to and conducted by the owner or operator and approved by the *[staff]* director, and incorporated into the federally approved SIP, taking into account energy, environmental, and economic impacts and other costs to determine an emission limitation that is achievable for the installation through application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of NO_x.

(B) To meet the requirements of paragraph (3)(A)3. or (3)(A)5. of this rule, the owner or operator may take into account as a portion of the *[required]* NO_x reductions, physical and quantifiable measures to increase energy efficiency, reduce energy demand, or increase use of renewable or recoverable fuels.

(4) Reporting and Record Keeping.

(A) Reporting Requirements. The owner or operator of a kiln subject to this rule shall comply with the following requirements:

1. *[By May 1, 2007, the o]*Owners or operators shall submit to the *[staff]* director the identification number and type of each unit subject to this rule, the name and address of the plant where the unit is located, and the name and telephone number of the person responsible for demonstrating compliance with this rule **by May 1 of the same year as the first compliance period;**

2. The owner or operator shall submit to the *[staff]* director by October 31 of each year*], beginning in the year 2007,]* an annual report documenting for that unit:*]-*

A. The emissions, in pounds of NO_x per ton of clinker produced from each affected Portland cement kiln during the period from May 1 through September 30;

B. The results of any performance testing; and

C. Cement kiln clinker production, in tons, from May 1 through September 30; and

3. If the owner or operator elects to comply with paragraph (3)(A)3. or (3)(A)5. of this rule, the owner or operator will supply*], starting April 2008,]* the *[staff]* director with a report as specified in the compliance plan **by April of the same year as the first com-**

pliance period.

(B) Record Keeping Requirements.

1. Any owner or operator of a unit subject to this rule shall produce and maintain records, which shall include, but are not limited to, the results of any initial performance test, the results of any subsequent performance tests, the date, time, and duration of any start-up, shutdown, or malfunction in the operation of any of the cement kilns, or the emissions monitoring equipment, as applicable.

2. If an owner or operator elects to use subsection (3)(B) of this rule as part of the compliance plan, the owner or operator must retain records as agreed to in the approved compliance plan.

3. Daily cement kiln clinker production in tons per day.

4. Any applicable monitoring data.

5. All records *[required to be produced or maintained]* shall be retained on-site for a minimum of five (5) years and made available upon request.

(C) Monitoring Requirements.

1. An owner or operator complying with paragraph (3)(A)1. or (3)(A)2. of this rule shall maintain and operate the device according to the manufacturer's specifications as approved by the permitting agency. The monitoring shall:*]-*

A. Include parameters indicated in the manufacturer's specifications and recommendations for the low-NO_x burner or mid-kiln firing system as approved by the permitting agency; and

B. Identify the specific operation conditions to be monitored and correlation between the operating conditions and NO_x emission rate.

2. An owner or operator complying with paragraph (3)(A)3., (3)(A)4., or (3)(A)5. of this rule shall complete an initial performance test **by May 1, 2007] of the same year as the first compliance period** and subsequent performance tests, on an annual basis, consistent with the requirements of section (5) of this rule.

3. An owner or operator may comply with the requirements in paragraph (4)(C)1. through the use of an alternative compliance method approved by the *[staff]* director and incorporated in the federally approved SIP.

4. Any deviation from the operating conditions or specifications, which result in an increase in NO_x emissions, established in this paragraph constitute a violation of this rule, unless the owner or operator demonstrates to the satisfaction of the director that the deviation did not result in an increase in NO_x emissions.

(5) Test Methods. NO_x emission level testing shall use one (1) of the following methods *[as specified by]* in 40 CFR *[part]* 60, Appendix A-4*]-Reference Methods]*, as specified in 10 CSR 10-6.030(22):

AUTHORITY: section 643.050, RSMo [2000] 2016. Original rule filed Feb. 14, 2005, effective Oct. 30, 2005. Amended: Filed May 9, 2018.

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: A public hearing on this proposed amendment will begin at 9:00 a.m., August 30, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., September 6, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to

Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

Jefferson City, MO 65102-0749. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 8—Local Government/School District
Partnership Program**

PROPOSED RESCISSION

11 CSR 30-8.010 Definitions. This rule defined terms used in the rules which pertain to the administration and operations of the Local Government/School District Partnership Program.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2003.

AUTHORITY: sections 589.300–589.310, RSMo (1994) and (Cum. Supp. 1996). Emergency rule filed Aug. 6, 1996, effective Aug. 16, 1996, expired Feb. 11, 1997. Original rule filed Sept. 20, 1996, effective April 30, 1997. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Department of Public Safety, Director's Office, PO Box 749, Jefferson City, MO 65102-0749. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 8—Local Government/School District
Partnership Program**

PROPOSED RESCISSION

11 CSR 30-8.020 Eligible Applicants. This rule established criteria to determine the eligibility of applicant agencies to receive assistance from the Local Government/School District Partnership Program.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2003.

AUTHORITY: sections 589.300–589.310, RSMo (1994) and (Cum. Supp. 1996). Emergency rule filed Aug. 6, 1996, effective Aug. 16, 1996, expired Feb. 11, 1997. Original rule filed Sept. 20, 1996, effective April 30, 1997. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Department of Public Safety, Director's Office, PO Box 749,

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 8—Local Government/School District
Partnership Program**

PROPOSED RESCISSION

11 CSR 30-8.030 Notification and Filing Procedure. This rule established the procedure for applying for assistance from the Local Government/School District Partnership Program.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2003.

AUTHORITY: section 589.307, RSMo (1994). Emergency rule filed Aug. 6, 1996, effective Aug. 16, 1996, expired Feb. 11, 1997. Original rule filed Sept. 20, 1996, effective April 30, 1997. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Department of Public Safety, Director's Office, PO Box 749, Jefferson City, MO 65102-0749. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 8—Local Government/School District
Partnership Program**

PROPOSED RESCISSION

11 CSR 30-8.040 Contract Awards, Monitoring and Review. This rule established the procedure for awarding, monitoring and reviewing programs funded by the Local Government/School District Partnership Program.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2003.

AUTHORITY: sections 589.300–589.310, RSMo (1994) and (Cum. Supp. 1996). Emergency rule filed Aug. 6, 1996, effective Aug. 16, 1996, expired Feb. 11, 1997. Original rule filed Sept. 20, 1996, effective April 30, 1997. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the

Department of Public Safety, Director's Office, PO Box 749, Jefferson City, MO 65102-0749. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RESCISSION

11 CSR 30-9.010 Definition. This rule defined a crime tip organization as it applies under Operation Payback.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2002.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expired Aug. 26, 2000. Original rule filed Feb. 28, 2000, effective Aug. 30, 2000. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Department of Public Safety, Director's Office, PO Box 749, Jefferson City, MO 65102-0749. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RESCISSION

11 CSR 30-9.020 Participation Eligibility Requirements. This rule established the criteria for a crime tip organization to be registered with the Missouri Department of Public Safety and thus be eligible to request reimbursement funds through Operation Payback.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2002.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expired Aug. 26, 2000. Original rule filed Feb. 28, 2000, effective Aug. 30, 2000. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Department of Public Safety, Director's Office, PO Box 749, Jefferson City, MO 65102-0749. To be considered, comments must be

received within thirty (30) days after publication of this notice in the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RESCISSION

11 CSR 30-9.030 Reimbursement Criteria. This rule established the criteria for a crime tip organization receiving reimbursement funds through Operation Payback.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2002.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expired Aug. 26, 2000. Original rule filed Feb. 28, 2000, effective Aug. 30, 2000. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Department of Public Safety, Director's Office, PO Box 749, Jefferson City, MO 65102-0749. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback**

PROPOSED RESCISSION

11 CSR 30-9.040 Operation Payback Restrictions. This rule stipulated prohibited use of reimbursement funds through Operation Payback.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2002.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expired Aug. 26, 2000. Original rule filed Feb. 28, 2000, effective Aug. 30, 2000. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Department of Public Safety, Director's Office, PO Box 749, Jefferson City, MO 65102-0749. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 9—Operation Payback

PROPOSED RESCISSION

11 CSR 30-9.050 Organization Disqualification. This rule established the criteria for which a crime tip organization may be removed from, or denied entry into, the Operation Payback program.

PURPOSE: The rule is being rescinded because the state legislature has not appropriated funds for this program since 2002.

AUTHORITY: section 650.020, RSMo Supp. 1999. Emergency rule filed Feb. 28, 2000, effective March 9, 2000, expired Aug. 26, 2000. Original rule filed Feb. 28, 2000, effective Aug. 30, 2000. Rescinded: Filed May 4, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Department of Public Safety, Director's Office, PO Box 749, Jefferson City, MO 65102-0749. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

PROPOSED RESCISSION

12 CSR 10-23.180 Replacement Vehicle Identification Plates. This rule clarified the issuance of replacement vehicle identification number plates stamped with the original vehicle identification number assigned by the manufacturer of the motor vehicle or trailer by the Department of Revenue.

PURPOSE: This rule is being rescinded because the department lacks rulemaking authority as required by section 536.014, RSMo. Section 301.300.4, RSMo also expressly limits the department's authority to promulgate rules under this provision.

AUTHORITY: section 301.300, RSMo 1986. Original rule filed July 31, 1985, effective Nov. 28, 1985. Rescinded: Filed May 9, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

PROPOSED RESCISSION

12 CSR 10-23.255 Issuance of New and Replacement Vehicle Identification Numbers. This rule clarified the issuance of a Department of Revenue vehicle identification number to motor vehicles and trailers which were never assigned a vehicle identification number plate by their manufacturer; which have a number destroyed, removed, covered or altered; or which were reconstructed with various major component parts of other motor vehicles or trailers which have conflicting or different vehicle identification numbers.

PURPOSE: This rule is being rescinded because it is unnecessary and the department lacks rulemaking authority as required by section 536.014, RSMo. Section 301.380, RSMo addresses the circumstances under which the department can issue a new or replacement VIN number.

AUTHORITY: sections 301.020, RSMo Supp. 2006 and 301.380, RSMo 2000. Original rule filed March 21, 1986, effective July 11, 1986. Amended: Filed Oct. 6, 2006, effective April 30, 2007. Rescinded: Filed May 9, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

PROPOSED RESCISSION

12 CSR 10-23.270 Watercraft and Outboard Motor Identification Numbers. This rule set forth the procedures for issuance of watercraft and outboard motor identification numbers.

PURPOSE: This rule is being rescinded because it is unnecessary. Sections 306.030 and 306.031 RSMo, already address the issuance, regulation, and replacement of serial numbers for vessels and outboard motors.

AUTHORITY: sections 306.030, RSMo Supp. 2006 and 306.031, RSMo 2000. Emergency rule filed March 17, 1986, effective March 27, 1986, expired July 25, 1986. Original rule filed March 17, 1986, effective June 28, 1986. Amended: Filed Oct. 6, 2006, effective April 30, 2007. Rescinded: Filed May 9, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

PROPOSED RESCISSION

12 CSR 10-23.275 Recognition of Nonresident Disabled Person Windshield Placards. This rule set forth the criteria by which Missouri recognized and honored vehicles displaying disabled person windshield placards or disabled emblems issued to resident or non-resident operators of these vehicles by the United States government, another state, District of Columbia, or territory or possession of the United States.

PURPOSE: This rule is being rescinded because it is unnecessary and the department lacks rulemaking authority as required by section 536.014, RSMo. Section 301.271, RSMo specifically provides that Missouri recognizes out of state registrations.

AUTHORITY: sections 301.142, RSMo Supp. 2001 and 301.271, RSMo 2000. Original rule filed April 21, 1986, effective Aug. 11, 1986. Amended: Filed Nov. 12, 1991, effective March 9, 1992. Amended: Filed Sept. 27, 2001, effective March 30, 2002. Rescinded: Filed May 9, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

PROPOSED RESCISSION

12 CSR 10-23.290 Use of License Plates After Name Change. This rule clarified when continued use of previously issued license plates is permissible by providing examples of various name-change situations.

PURPOSE: This rule is being rescinded because it is unnecessary. Sections 301.442 and 301.140, RSMo address the continued use of previously issued license plates after a transfer. The examples provided in the rule are overly complicated and unnecessary.

AUTHORITY: sections 301.140, RSMo Supp. 1987 and 301.442, RSMo 1986. Original rule filed April 21, 1986, effective Aug. 11, 1986. Rescinded: Filed May 9, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

PROPOSED RESCISSION

12 CSR 10-23.426 Special Identification Numbers. This rule clarified the issuance of special identification numbers to units seized by law enforcement because the identification number has been removed, covered, altered, destroyed, or defaced and the procedures for obtaining these numbers.

PURPOSE: This rule is being rescinded because it is unnecessary. Section 301.390, RSMo already describes the procedure for the issuance of a special identification number to property seized by law enforcement.

AUTHORITY: section 301.390, RSMo 1986. Original rule filed April 23, 1992, effective Dec. 3, 1992. Rescinded: Filed May 9 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Driver License Bureau Rules**

PROPOSED RESCISSION

12 CSR 10-24.050 Deletion of Traffic Convictions and Suspension or Revocation Data From Missouri Driver Records. This rule provided clarification of procedures to be followed for the expungement from a Missouri driver record of previously recorded traffic violations or suspensions or revocations of a driving privilege.

PURPOSE: This rule is being rescinded because it lacks substantive value and the department lacks rulemaking authority as required by section 536.014, RSMo. This rule provided the department with permissive authority to delete certain traffic convictions from a Missouri driving record. The department is required to maintain copies of all accident reports, applications for licenses, and abstracts of court

convictions pursuant to section 302.120, RSMo. The department's authority in this area is also addressed in relationship to the expungement of criminal records, sections 610.122 through 610.140, RSMo. Specifically, section 610.126 permits the department to keep records necessary for administrative actions on a driver's license.

AUTHORITY: sections 302.286, 302.304, 302.309 and 303.041, RSMo Supp. 2004, and 49 CFR 384.231(d). Original rule filed May 27, 1986, effective Aug. 25, 1986. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed May 9, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure**

PROPOSED RESCISSION

12 CSR 10-26.200 Out-of-State Dealer Request to Participate in Missouri Recreational Vehicle Show or Exhibit. Section 301.566, RSMo, required a recreational vehicle (RV) dealer licensed in another state who intends to participate in a RV show or exhibition in Missouri to notify the Department of Revenue at least thirty (30) days prior to the event. This rule established the form that must be used to notify the department.

PURPOSE: This rule is being rescinded because the provisions of (1) and (1)(B) within the rule are already stated in section 301.566.3, 4, and 5. The form referenced in the provisions of (1)(A) within the rule is not required, therefore the entire rule is unnecessary.

AUTHORITY: sections 301.553, RSMo 2000 and 301.566, RSMo Supp. 2007. Original rule filed Aug. 8, 2007, effective Feb. 29, 2008. Rescinded: Filed May 9, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 42—General Department Policies**

PROPOSED RESCISSION

12 CSR 10-42.060 Investment and Cash Management Procedures.

This rule identified the forms which funds are received by the Investment and Cash Management Office. The rule also set deadlines for receiving each type of funds at the Investment and Cash Management Office for both normal working days and the last working day of the fiscal year.

PURPOSE: This rule is being rescinded because it is obsolete. When SAMII Financials was implemented in July of 1999, the department no longer deposited funds using the revenue transmittal form SAM 540.

AUTHORITY: section 136.110, RSMo 1986. Original rule filed Jan. 20, 1987, effective May 11, 1987. Rescinded: Filed May 9, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Department of Revenue, General Counsel's Office, PO Box 475, Jefferson City, MO 65105-0475. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2065—Endowed Care Cemeteries
Chapter 1—Organization and Description**

PROPOSED RESCISSION

20 CSR 2065-1.020 Cemetery Advisory Committee. This rule defined the Endowed Care Cemetery Advisory Committee.

PURPOSE: This rule is being rescinded to dissolve the advisory committee.

AUTHORITY: sections 214.280, RSMo Supp. 1999 and 214.392, RSMo 1994. This rule originally filed as 4 CSR 65-1.020. Original rule filed Sept. 11, 1997, effective March 30, 1998. Amended: Filed April 14, 2000, effective Oct. 30, 2000. Moved to 20 CSR 2065-1.020, effective Aug. 28, 2006. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the Office of Endowed Care Cemeteries, PO Box 1335, Jefferson City, Missouri 65102, by facsimile transmission to (573) 526-3489, or via email at endocare@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2065—Endowed Care Cemeteries
Chapter 1—Organization and Description**

PROPOSED AMENDMENT

20 CSR 2065-1.030 Definitions. The office is proposing to delete section (2) and renumber subsequent sections.

PURPOSE: This amendment deletes the definition of committee.

[(2) Committee—the Endowed Care Cemetery Advisory Committee.]

[(3)](2) Division—the Division of Professional Registration.

[(4)](3) FDIC—Federal Deposit Insurance Corporation.

[(5)](4) Office—Office of Endowed Care Cemeteries.

AUTHORITY: sections 214.270 and 214.392[.1(5)], RSMo [Supp. 2007] 2016. This rule originally filed as 4 CSR 65-1.030. Original rule filed April 14, 2000, effective Oct. 30, 2000. Moved to 20 CSR 2065-1.030, effective Aug. 28, 2006. Amended: Filed June 16, 2008, effective Dec. 30, 2008. Amended: Filed May 11, 2018.

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 Office of Endowed Care Cemeteries, PO Box 1335, Jefferson City, Missouri 65102, by facsimile transmission to (573) 526-3489, or via email at endocare@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2065—Endowed Care Cemeteries
Chapter 1—Organization and Description**

PROPOSED AMENDMENT

20 CSR 2065-1.050 Complaint Handling and Disposition. The office is amending sections (1), (3), (4), (6), and (7).

PURPOSE: This amendment removes references to the Endowed Care Cemetery Advisory Committee.

(1) The Division of Professional Registration, in coordination with the *[Endowed Care Cemetery Advisory Committee] office*, will receive and process each complaint made against any holder of a certificate of authority in which the complaint alleges certain acts or practices that may constitute one (1) or more violations of provisions of sections 214.270–214.516, RSMo, or administrative rules. *[No member of the Endowed Care Cemetery Advisory Committee may file a complaint with the division or committee while holding office, unless that member is excused from further committee deliberation or activity concerning the*

matters alleged within that complaint.] Any division staff member [or committee member] may file a complaint pursuant to this rule in the same manner as any member of the public.

(3) All complaints shall be made in writing on a form provided by the division and shall fully identify the complainant by name and address. Verbal or telephone communication will not be considered or processed as complaints, however, the person making such communication will be asked to supplement the communication with a written complaint. Complaints may be based upon personal knowledge, or upon information and belief, reciting information received from other sources. Individuals with special needs, as addressed by the Americans with Disabilities Act, may notify the *[committee] office* at (573) 751-0849 for assistance. The text for the hearing impaired is (800) 735-2966.

(4) Each complaint received under this rule will be logged and maintained by the division. The log will contain a record of each complainant's name~~;~~, the name and address of the subject(s) of the complaint~~;~~, the date each complaint was received by the division/*[committee;] office*, a brief statement concerning the alleged acts or practices, and the ultimate disposition of the complaint. This log shall be a closed record of the committee.

(6) This rule shall not be deemed to limit the authority to file a complaint with the Administrative Hearing Commission charging the *[committee's]* licensee with any actionable conduct or violation, whether or not such a complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the *[committee] office*.

(7) The division interprets this rule, which is required by law, to exist for the benefit of those members of the public who submit complaints to the *[committee] office*. This rule is not deemed to protect~~,~~ or inure the benefit of those licensees or other persons against whom the *[committee] office* has instituted or may institute administrative or judicial proceedings concerning possible violations of the provisions of sections 214.270–214.516, RSMo.

AUTHORITY: sections 214.392, [RSMo 1994 and 620.010.15(6),] RSMo [Supp. 1999] 2016. This rule originally filed as 4 CSR 65-1.050. Original rule filed April 14, 2000, effective Oct. 30, 2000. Moved to 20 CSR 2065-1.050, effective Aug. 28, 2006. Amended: Filed May 11, 2018.

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 Office of Endowed Care Cemeteries, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3489, or via email at endocare@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2065—Endowed Care Cemeteries
Chapter 1—Organization and Description**

PROPOSED AMENDMENT

20 CSR 2065-1.060 Fees. The office is amending the purpose state-

PURPOSE: This amendment replaces a reference to the Endowed Care Cemetery Advisory Committee.

PURPOSE: This rule establishes fees for the Division of Professional Registration and the [Endowed Care Cemetery Advisory Committee] Office of Endowed Care Cemeteries.

AUTHORITY: sections 214.275, [RSMo Supp. 2001 and] 214.280, 214.283, and 610.026, RSMo [2000] 2016. This rule originally filed as 4 CSR 65-1.060. Original rule filed April 14, 2000, effective Oct. 30, 2000. Amended: Filed Sept. 28, 2001, effective March 30, 2002. Moved to 20 CSR 2065-1.060, effective Aug. 28, 2006. Amended: Filed May 11, 2018.

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 Office of Endowed Care Cemeteries, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3489, or via email at endocare@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2065—Endowed Care Cemeteries
Chapter 2—General Rules**

PROPOSED AMENDMENT

20 CSR 2065-2.010 Application for a License. The office is amending section (1), deleting sections (3), (4), and (5), and renumbering as necessary.

PURPOSE: This amendment deletes sections that restate statutory language.

(1) [Application for licensure shall be submitted on the form provided by the office.] License application [F]orms may be obtained by contacting the Office of Endowed Care Cemeteries at 3605 Missouri Boulevard, Jefferson City, MO 65102 or by calling (573) 751-0849. The number for the hearing impaired is (800) 735-2966.

[(3) An applicant owning or operating an endowed care cemetery shall submit along with the application a notarized verification statement from the trustee verifying that a trust fund has been established as required in section 214.310, RSMo. If the trust fund is set aside in a segregated bank account, a notarized statement from a licensed practicing attorney with escrow powers, including the attorney's Missouri bar number, shall be submitted.

(4) An applicant owning or operating an endowed care cemetery shall submit along with the application a copy of the trust fund agreement for approval by the office or an affidavit from a licensed practicing attorney in this state verifying the agreement is in compliance with sections 214.270 to 214.516, RSMo.

(5) A notarized verification statement from a bonding company or insurance company shall accompany the application verifying that a surety bond has been issued pursuant to section 214.310, RSMo, if required.]

[(6)](3) Applicants approved for a license will receive one (1) license. Duplicate licenses may be provided upon written request to the division.

[(7)](4) An application for a license to operate a cemetery does not constitute an election to operate a cemetery as an endowed care cemetery. If an election pursuant to section 214.280, RSMo has not been made for a cemetery, it must accompany the application for a license.

AUTHORITY: section 214.275, RSMo [Supp. 2001] 2016. This rule originally filed as 4 CSR 65-2.010. Original rule filed Sept. 28, 2001, effective March 30, 2002. Moved to 20 CSR 2065-2.010, effective Aug. 28, 2006. Amended: Filed May 11, 2018.

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 Office of Endowed Care Cemeteries, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3489, or via email at endocare@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2065—Endowed Care Cemeteries
Chapter 2—General Rules**

PROPOSED AMENDMENT

20 CSR 2065-2.020 Endowed Care Cemetery Converting to Nonendowed. The office is deleting section (2).

PURPOSE: This amendment deletes a section that restates statutory language.

[(2) The office shall inform the cemetery owner/operator whether the cemetery may operate as a nonendowed cemetery. The office may require an audit of the endowed care trust funds prior to evaluating a request to convert a cemetery from endowed to nonendowed care. If the letter of intent is approved by the office, the nonendowed section shall be separately designated from the remainder of the cemetery as required by law. All sections with burial spaces previously sold as endowed care shall remain as endowed care. The endowed care fund in place at the time the cemetery is converted to nonendowed shall remain intact and be maintained pursuant to the trust requirements as set forth in sections 214.240–214.516, RSMo. If the trust funds have not been maintained in compliance with the Endowed Care Cemetery Trust Fund Law prior to conversion to a nonendowed care cemetery, the holder of the certificate of authority shall be required to make all necessary deposits to the trust fund prior to conversion to a nonendowed care cemetery.]

AUTHORITY: sections 214.280.2I, RSMo Supp. 1999] and 214.392, RSMo [1994] 2016. This rule originally filed as 4 CSR 65-2.020. Original rule filed April 14, 2000, effective Oct. 30, 2000. Moved to 20 CSR 2065-2.020, effective Aug. 28, 2006. Amended: Filed May 11, 2018.

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 Office of Endowed Care Cemeteries, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3489, or via email at endocare@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2065—Endowed Care Cemeteries
Chapter 2—General Rules**

PROPOSED AMENDMENT

20 CSR 2065-2.050 License Renewal. The board is amending subsection (1)(B), deleting section (2), and renumbering as necessary.

PURPOSE: This amendment deletes a section that restates statutory language.

(1) All licenses shall be renewed annually and shall expire on August 31.

(B) The division *[shall]* will mail a renewal application to the last known address of each current holder of a license to own or operate a cemetery prior to the renewal date.

[(2) The license issued to the owner or operator of a cemetery which is not renewed within three (3) months after the license renewal date shall be suspended automatically. The holder of such a license shall have the right to have the suspended license reinstated within nine (9) months of the date of suspension if the person pays the required reinstatement fee and complies with all other renewal requirements set forth above. A license that is suspended and not reinstated within nine (9) months of the suspension shall expire and be void and the holder of such license shall have no rights or privileges provided to holders of valid licenses. Any person whose license has expired may be re-registered or reauthorized under the original license number upon demonstration of current qualifications and payment of the following required fees: original licensure fee and renewal fees and reinstatement fees for each unpaid renewal period for which the holder of the license owned or operated the cemetery.]

[(3)](2) Applicants that are approved for renewal will receive one (1) license. Duplicate licenses may be provided upon payment of the appropriate fee pursuant to rules promulgated by the division.

AUTHORITY: sections 214.275.4 and 214.276, RSMo [Supp. 2001] 2016. This rule originally filed as 4 CSR 65-2.050. Original rule filed Sept. 28, 2001, effective March 30, 2002. Moved to 20 CSR 2065-2.050, effective Aug. 28, 2006. Amended: Filed May 11, 2018.

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 Office of Endowed Care Cemeteries, PO Box 1335, Jefferson City, Missouri 65102, by facsimile transmission to (573) 526-3489, or via email at endocare@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2115—State Committee of Dietitians
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2115-1.010 General Organization. The committee is amending sections (1) and (4).

PURPOSE: This amendment updates titles for licensed dietitians and removes phone numbers.

(1) The purpose of the committee is to regulate the use of the title licensed dietitian *[and/or] L.[J]D[.], or LDN*, to protect the public from misuse or misrepresentation of that title and to implement and sustain a system for the examination and licensure of dietitians in this state.

(4) The public may obtain information from the committee or make submissions or requests by writing the executive director of the committee at 3605 Missouri Boulevard, P[.]O[.] Box 1335, Jefferson City, MO 65102 *[or by calling (573) 522-3438]* or by electronic mail (E-mail) at diet@mail.state.mo.us. *[The TDD number is (800) 735-2966.]*

AUTHORITY: sections 324.200, 324.203, 324.225, and 324.228, RSMo [Supp. 1999] 2016. This rule originally filed as 4 CSR 115-1.010. Original rule filed March 15, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2115-1.010, effective Aug. 28, 2006. Amended: Filed May 11, 2018.

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 State Committee of Dietitians, PO Box 1335, Jefferson City, MO 65102, via facsimile at (573) 526-3489, or via email at diet@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2115—State Committee of Dietitians
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2115-1.030 Complaint Handling and Disposition. The

committee is amending section (3).

PURPOSE: This amendment removes a phone number from the rule.

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. Verbal or telephone communication will not be considered or processed as a complaint, however, the person making such communication will be asked to supplement the communication with a written complaint. Complaints may be based upon personal knowledge, or upon information and belief, reciting information received from other sources. Individuals with special needs, as addressed by the Americans with Disabilities Act, may notify the committee office at (573) 522-3438 for assistance. *[The text for the hearing impaired is (800) 735-2966.]*

AUTHORITY: sections 324.217[,] and 324.228 [and 620.010.15(6)], RSMo [Supp. 1999] 2016. This rule originally filed as 4 CSR 115-1.030. Original rule filed March 15, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2115-1.030, effective Aug. 28, 2006. Amended: Filed May 11, 2018.

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 State Committee of Dietitians, PO Box 1335, Jefferson City, MO 65102, via facsimile at (573) 526-3489, or via email at diet@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2115—State Committee of Dietitians
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

20 CSR 2115-2.010 Application for Licensure/[Grandfather Clause]/Reciprocity. The committee is amending the title, section (1), and deleting section (4).

PURPOSE: This amendment deletes contact information and duplicate statutory language.

(1) Applications for licensure shall be submitted on the forms provided by the committee and may be obtained by writing the committee at 3605 Missouri Boulevard, PO Box 1335, Jefferson City, MO 65102, *[by calling (573) 522-3438,]* or by electronic mail (email) at diet@pr.mo.gov. *[The TDD number is (800) 735-2966.]*

[(4) In order to file an application for licensure under section 324.210.4, RSMo, the grandfather clause, communication, such as a letter of intention, to apply for licensure pursuant to that provision shall have been postmarked no later than July 1, 2000. To complete the application process for licensure pursuant to section 324.210.4, RSMo, the information outlined in 20 CSR 2115-2.020 (grandfather clause) shall be submitted to the state committee within one (1) year of the effective date of this rule following the receipt of the letter

of intent postmarked by July 1, 2000.]

AUTHORITY: sections 324.210.4, 324.212, [and] 324.215, [RSMo Supp. 2011,] and [section] 324.228, RSMo [2000] 2016. This rule originally filed as 4 CSR 115-2.010. Original rule filed March 15, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2115-2.010, effective Aug. 28, 2006. Amended: Filed Nov. 21, 2006, effective May 30, 2007. Amended: Filed Nov. 15, 2011, effective May 30, 2012. Amended: Filed May 11, 2018.

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 State Committee of Dietitians, PO Box 1335, Jefferson City, MO 65102, via facsimile at (573)526-3489, or via email at diet@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2115—State Committee of Dietitians
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

20 CSR 2115-2.020 Qualifications for Licensure. The committee is amending section (1), deleting section (2), and renumbering as necessary.

PURPOSE: This amendment updates licensure requirements.

(1) Any person applying for licensure[, *except those applying for licensure under section 324.210.4., RSMo, (grandfather clause)]* shall—

(A) Submit a photocopy of current registration card or other verification, as approved by the committee, from the Commission on Dietetic Registration (CDR) that the applicant is currently registered[; and].

[(B) Successfully complete the academic requirements and supervised practice experience as established by the American Dietetic Association's Commission on Accreditation/Approval of Dietetic Education (CAADE) and—

1. Achievement of passing score on the examination approved by the CDR no more than five (5) years prior to the date of application; and

2. Applicants seeking licensure by examination shall cause the CDR to report the examination score of the applicant to the committee.

(2) Any person applying for licensure pursuant to section 324.210.4., RSMo, shall either—

(A) Submit a photocopy of current registration card or other verification, as approved by the committee, from the CDR that the applicant is currently registered; or

(B) Submit college transcripts and course descriptions verifying that the applicant has obtained a bachelor's degree from an accredited college or university with a major course of study that includes all of the following course work:

1. Biological sciences—Nine (9) semester hours that

must include human anatomy, physiology, and microbiology or the equivalent as determined by the committee;

2. Chemistry—Six (6) semester hours that must include biochemistry or the equivalent as determined by the committee;

3. Behavioral sciences—Six (6) semester hours (such as psychology, sociology, counseling, or educational psychology);

4. Management—Six (6) semester hours that must include food service management and institutional management or the equivalent as determined by the committee; and

5. Foods and nutrition—Twenty-five (25) semester hours that must include each of the following: diet therapy, medical dietetics, clinical nutrition, nutrition through the life cycle, applied human nutrition, advanced human nutrition, and food science or the equivalent as determined by the committee; and

(C) Provide proof of completion of nine hundred (900) hours of continuous clinical experience in the field of dietetics that meets the Foundation Knowledge and Skills and Competency Requirements for Entry-Level Dietitians as adopted by the American Dietetic Association, is approved by the committee and has been acquired during or within five (5) years of completion of academic requirements and not more than five (5) years before the date of licensure application.

1. Experience, as required under this rule, must be observed, assessed and coordinated by a licensed dietitian, a dietitian licensed in another state that has licensure requirements determined by the committee to be equal to the requirements of sections 324.200–324.225, RSMo, or a dietitian in a state without licensing who is registered by the CDR and submitted to the committee. Experience must be verified on a form provided by the committee and signed before a notary public; or

2. A verification statement, signed by the applicant's internship director and/or program director, attesting that the applicant has graduated from an American Dietetic Association accredited curriculum and that he/she has completed an accredited American Dietetic Association internship shall be submitted to the committee.]

[(3)](2) Following review of each application by the committee, the applicant shall be informed in writing of the decision regarding application for licensure. Applicants that are approved for licensure will receive one (1) license. Duplicate licenses may be provided upon payment of the appropriate fee pursuant to rules promulgated by the committee.

AUTHORITY: sections 324.210[, RSMo Supp. 2011,] and [section] 324.228, RSMo [2000] 2016. This rule originally filed as 4 CSR 115-2.020. Original rule filed March 15, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2115-2.020, effective Aug. 28, 2006. Amended: Filed Nov. 15, 2011, effective May 30, 2012. Amended: Filed May 11, 2018.

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 State Committee of Dietitians, PO Box 1335, Jefferson City, MO 65102, via facsimile at (573) 526-3489, or via email at diet@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2115—State Committee of Dietitians
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

20 CSR 2115-2.030 Examination for Licensure. The committee is amending section (1).

PURPOSE: This amendment updates the name of the national association for dietitians.

(1) The committee approves the examination offered by the Commission on Dietetic Registration (CDR) for the [American Dietetic Association] Academy of Nutrition and Dietetics.

AUTHORITY: sections 324.210.3 and 324.228, RSMo [Supp. 1999] 2016. This rule originally filed as 4 CSR 115-2.030. Original rule filed March 15, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2115-2.030, effective Aug. 28, 2006. Amended: Filed May 11, 2018.

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 State Committee of Dietitians, PO Box 1335, Jefferson City, MO 65102, via facsimile at (573) 526-3489, or via email at diet@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2115—State Committee of Dietitians
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

20 CSR 2115-2.040 License Renewal. The committee is amending subsection (1)(D).

PURPOSE: This amendment adds a new title for licensed dietitians.

(1) All licenses shall be renewed biennially.

(D) Failure to receive a renewal notice shall not relieve the licensee of the obligation to renew the license in order to use the title licensed dietitian [and/or], L./D./, or LDN and pay the required fee prior to the expiration date of the license.

AUTHORITY: sections 324.212[, RSMo Supp. 2011,] and [section] 324.228, RSMo [2000] 2016. This rule originally filed as 4 CSR 115-2.040. Original rule filed March 15, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2115-2.040, effective Aug. 28, 2006. Amended: Filed Nov. 15, 2011, effective May 30, 2012. Amended: Filed May 11, 2018.

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 State Committee of Dietitians, PO Box 1335, Jefferson City, MO 65102, via facsimile at (573) 526-3489, or via email at diet@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2200—State Board of Nursing
Chapter 5—Definitions**

PROPOSED RESCISSION

20 CSR 2200-5.010 Definitions. This rule provided definitions of terms used by the Missouri State Board of Nursing.

PURPOSE: This rule is being rescinded and the definition of proper supervision is being incorporated into already existing rules.

AUTHORITY: Chapter 335, RSMo 1986. This rule originally filed as 4 CSR 200-5.010. Original rule filed Oct. 14, 1981, effective Jan. 14, 1982. Amended: Filed March 15, 1983, effective June 11, 1983. Moved to 20 CSR 2200-5.010, effective Aug. 28, 2006. Rescinded: Filed May 11, 2018.

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

PRIVATE COST: This proposed rescission 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 rescission with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075, or via email at nursing@pr.mo.gov. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2210—State Board of Optometry
Chapter 2—General Rules**

PROPOSED AMENDMENT

20 CSR 2210-2.070 Fees. The board is adding paragraph (1)(C)1.

PURPOSE: This amendment creates a one- (1-) time reduction of renewal fees.

(1) The following fees are established by the State Board of Optometry:

(C) Biennial Renewal Fee \$150

1. Effective August 1, 2018 through July 31, 2020 \$125

AUTHORITY: sections 336.140 and 336.160, RSMo [Supp. 2007] 2016. This rule originally filed as 4 CSR 210-2.070. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed May 11, 2018, effective May 21, 2018, expires Feb. 28, 2019. Amended: Filed May 11, 2018.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately thirty-two thousand five hundred dollars (\$32,500) from August 1, 2018 through July 31, 2020. Effective September 1, 2020, the renewal fee will revert to its original cost, and the additional costs will end.

PRIVATE COST: This proposed amendment will save private entities approximately thirty-two thousand five hundred dollars (\$32,500) from August 1, 2018 through July 31, 2020.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Optometry, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-8216, or via email at optometry@pr.mo.gov. 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.

PUBLIC FISCAL NOTE

I. RULE NUMBER

**Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2210 - State Board of Optometry
Chapter 2 - General Rules
Proposed Amendment to 20 CSR 2210-2.070 - Fees**

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
State Board of Optometry	\$32,500	
	Total Loss of Revenue for August 1, 2018, through August 31, 2020	\$32,500

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.
2. The board utilizes a rolling five-year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five-year analysis is based on the projected revenue, expenses, and number of licensees. Based on the board's recent five-year analysis, the board voted on a reduction in individual biennial renewal fees for optometrists.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2210 - State Board of Optometry
Chapter 2 - General Rules
Proposed Amendment to 20 CSR 2210-2.070 - Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated savings for the life of the rule by affected entities:
1,300	Biennial Renewal Fee (Renewal Fee Decrease @ \$25)	\$32,500
	Estimated Total Cost Savings for August 1, 2018, through August 31, 2020	\$32,500

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY 2019 projections.
2. Individual optometrist renew biennially. This fiscal note shows the number expected to renew during the 2018-2020 renewal period.
3. It is anticipated that the total fiscal savings will occur beginning in FY2019, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2231—Division of Professional Registration
Chapter 2—Designation of License Renewal Dates and
Related Renewal Information**

PROPOSED AMENDMENT

20 CSR 2231-2.010 Designation of License Renewal Dates and Related Renewal Information. The board is amending the purpose statement and subsection (2)(D).

PURPOSE: This amendment updates statutory references and adds “Professional” to Landscape Architects.

PURPOSE: This rule complies with section [620.010.15(2)] 324.001.3, RSMo, which requires the director of the Division of Professional Registration to promulgate rules which designate for each board or commission assigned to the division the renewal date for licenses or certificates and section [620.010.14(6)] 324.001.7, RSMo, which requires the director to be responsible for collecting and accounting for all monies received by the division or its component agencies.

(2) The license renewal dates designated for each agency assigned to the division are—

(D) Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and **Professional** Landscape Architects—

1. Architects, engineers, land surveyors—January 1;
2. Landscape architects—January 1; and
3. Firms/corporations—January 1;

AUTHORITY: section 324.001, RSMo [Supp. 2013] 2016. This rule originally filed as 4 CSR 231-2.010. Emergency rule filed Feb. 9, 1982, effective Feb. 19, 1982, expired May 12, 1982. Original rule filed Feb. 9, 1982, effective May 13, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed May 4, 2018.

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 Division of Professional Registration, Katie Steele Danner, Division Director, PO Box 1335, Jefferson City, MO 65102, or via email at profreg@pr.mo.gov. 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.