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Part I

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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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

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•

EDITOR

VONNE KILBOURN

•

ASSOCIATE EDITOR

MARTY SPANN

•

PUBLICATION SPECIALIST

JACQUELINE D. WHITE

•

ADMINISTRATIVE AIDE

ALISHA DUDENHOEFFER

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IN THIS ISSUE:

PART I

PROPOSED RULES

Department of Agriculture

Plant Industries	1549
Missouri Agricultural and Small Business Development Authority	1563

Department of Economic Development

Public Service Commission	1567
-------------------------------------	------

Department of Natural Resources

Clean Water Commission	1596
----------------------------------	------

PART II

Department of Natural Resources

Hazardous Waste Management Commission	1759
Safe Drinking Water Commission	1802
Solid Waste Management	1892
State Parks	1905

Department of Public Safety

Division of Alcohol and Tobacco Control	1915
---	------

Department of Social Services

Family Support Division	1917
MO HealthNet Division	1917

ORDERS OF RULEMAKING

Department of Agriculture

Animal Health	1919
Weights, Measures and Consumer Protection	1919

Missouri Department of Transportation

Missouri Highways and Transportation Commission	1919
---	------

Department of Mental Health

Certification Standards	1934
-----------------------------------	------

Department of Natural Resources

Hazardous Waste Management Commission	1935
Petroleum and Hazardous Substance Storage Tanks	1938

Department of Health and Senior Services

Division of Senior and Disability Services	1938
Division of Regulation and Licensure	1940
Division of Maternal, Child and Family Health	1940
Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services	1940
Missouri Senior Rx Program	1941

Department of Insurance, Financial Institutions and Professional Registration

State Board of Pharmacy	1943
-----------------------------------	------

IN ADDITIONS

Department of Social Services

Family Support Division	1944
-----------------------------------	------

Department of Health and Senior Services

Missouri Health Facilities Review Committee	1944
---	------

DISSOLUTIONS

.	1945
-----------	------

SOURCE GUIDES

RULE CHANGES SINCE UPDATE	1949
EMERGENCY RULES IN EFFECT	1966
EXECUTIVE ORDERS	1967
REGISTER INDEX	1969

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
March 1, 2018 March 15, 2018	April 2, 2018 April 16, 2018	April 30, 2018 April 30, 2018	May 30, 2018 May 30, 2018
April 2, 2018 April 16, 2018	May 1, 2018 May 15, 2018	May 31, 2018 May 31, 2018	June 30, 2018 June 30, 2018
May 1, 2018 May 15, 2018	June 1, 2018 June 15, 2018	June 30, 2018 June 30, 2018	July 30, 2018 July 30, 2018
June 1, 2018 June 15, 2018	July 2, 2018 July 16, 2018	July 31, 2018 July 31, 2018	August 30, 2018 August 30, 2018
July 2, 2018 July 16, 2018	August 1, 2018 August 15, 2018	August 31, 2018 August 31, 2018	September 30, 2018 September 30, 2018
August 1, 2018 August 15, 2018	September 4, 2018 September 17, 2018	September 30, 2018 September 30, 2018	October 30, 2018 October 30, 2018
September 4, 2018 September 17, 2018	October 1, 2018 October 15, 2018	October 31, 2018 October 31, 2018	November 30, 2018 November 30, 2018
October 1, 2018 October 15, 2018	November 1, 2018 November 15, 2018	November 30, 2018 November 30, 2018	December 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*.

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

Entirely new rules are printed without any special symbology under the heading of 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 70—Plant Industries Chapter 1—Organization and Description

PROPOSED AMENDMENT

2 CSR 70-1.010 General Organization. The director is amending sections (1) and (2).

PURPOSE: This amendment updates the listing of programs and locations in the division.

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 ref-

erence material. The entire text of the rule is printed here.

(1) The Plant Industries Division is a regulatory and service agency of the Missouri Department of Agriculture and is subdivided into the following bureaus and functions:

(A) The Bureau of Plant Pest Control, under the supervision of the state entomologist, is responsible for administering the following statutes:

1. The Missouri Plant Law requires the state entomologist to make mandatory inspections of nurseries and nursery stock including woody plants and perennials. The Act also requires the state entomologist to stay abreast of serious plant pests; to make surveys for and to control the spread of especially serious plant pests; establish and enforce plant pest quarantines; provide inspection service and issue special certification for plants and plant parts to be shipped to foreign countries; and to issue special certification for plants, plant material and other regulated items being shipped from quarantined areas. *[The forms used to administer this law are on file with the secretary of state.]* Rules pertaining to the Missouri Plant Law are filed in Chapter 10 and Plant Law Quarantines are filed under Chapter 11 of this division; and

2. The Missouri Apiary Law empowers the state entomologist to provide inspection of apiaries within the state and issue certificates on colonies found to be free of American and European foulbrood and other serious bee diseases. This inspection service is optional and must be paid for by the beekeeper receiving inspection. *[The forms used to administer this law are on file with the secretary of state.]* Rules pertaining to the Missouri Apiary Act are filed under Chapter 15 of this division;

(B) The Bureau of Pesticide Control is responsible for administering the following statutes:

1. The Missouri Pesticide Registration Act requires the registration of all pesticides distributed, sold or held for sale in the state of Missouri. Any pesticide is defined to be any substance intended for preventing, destroying, repelling or mitigating any insects, rodents, fungi, weeds or other forms of plant or animal life or viruses, except viruses or fungi on or in living men or other animals. The Act establishes labeling requirements and sets penalties for violators. Inspections of retail dealers of pesticides are performed throughout the state to enforce compliance with this Act. *The forms used to administer this law are on file with the secretary of state;* and

2. The Missouri Pesticide Use Act requires the certification and licensing of persons who apply pesticides for a fee. This includes pest control operators and aerial applicators, as well as other custom applicators of agricultural pesticides. The Act also requires the certification of persons applying any pesticides which have been declared restricted due to its environmental impact. This group of pesticide applicators includes—farmers, called private applicators; government employees who apply pesticides in the course of their duties; and persons involved in research and experimental programs. Pesticide technicians are required to attain verifiable training and become licensed. Dealers of restricted use pesticides must also be licensed. The Act sets penalties for violations. *[The forms used to administer this law are on file with the secretary of state.]* Rules pertaining to the Missouri Pesticide Act are filed under Chapter 25 of this division;

(C) Bureau of Feed and Seed is responsible for administering the following statutes:

1. The Missouri Commercial Feed Law provides for regulation of the feed industry through the registration of commercial feeds and commercial feed manufacturers. The Act requires accurate labeling of commercial feed ingredients. The feed control laboratory supports the work of the bureau by performing analytical tests to determine that protein, fat, fiber, minerals, salt, vitamin A, and drugs actually exist in the feed in the same proportions as guaranteed by the label.

The Act gives the director of agriculture the authority to stop-sale any feed failing to meet the labeling claims. An inspection fee of ten cents (10¢) per ton is charged to manufacturers for commercial feed inspected under the program in Missouri. *[The forms used to administer this law are on file with the secretary of state.]* Rules pertaining to the Missouri Commercial Feed Law are filed under Chapters 30 and 31 of this division; and

2. The Missouri Seed Law requires the licensing of wholesale and retail seed dealers and requires accurate labeling of agricultural and vegetable seed sold in this state. The statute also provides for personnel and laboratory facilities to determine that the label guarantees for purity, germination, and noxious weeds are within tolerances set by the Act. The test date for seed must be shown on the label and all seed must be sold within nine (9) months of testing. Stop-sales are placed on seed failing to meet the statutory requirements. *[The forms used to administer this law are on file with the secretary of state.]* Rules pertaining to the Missouri Seed Law are filed under Chapter 35 of this division; *[and]*

(D) The following statutes are also administered by the Plant Industries Division:

1. *[The Missouri Treated Timber Products Law requires all companies selling timber products treated with preservatives to register with and be licensed by the Missouri Department of Agriculture. It requires branding of treated timber products and sets standards for retention of preservatives. Core samples of treated timber products are analyzed to determine compliance with the Act. The forms used to administer this law are on file with the secretary of state. Rules pertaining to the Missouri Treated Timber Products Law are filed under Chapter 40 of this division;] Hemp extract cultivation and production facility licensing and inspection authority is granted under section 261.265, RSMo. Rules pertaining to this chapter are filed under Chapter 14 of this division; and*

2. The Missouri Johnson Grass Control Eradication Law is a county option law which, after approval by a majority electorate of a county, allows the director of agriculture to appoint a county weed control board and requires the control and eradication of Johnson grass on both private and public lands within the county. Rules pertaining to the Missouri Johnson Grass Control and Eradication Law are filed under Chapter 45 of this division; *[and]*.

[3. Horticultural inspection, both shipping point and receiving point, is performed through statutory authority granted the director of agriculture in the Missouri Standardization, Inspection and Marketing of Agricultural Products Act, Chapter 265, RSMo (1986).

A. Shipping point inspections are provided to determine that quality and grades of fresh fruit and vegetables being packed and shipped are as guaranteed by the producer.

B. Receiving point inspections are made to determine that produce being received by distributors or brokers is of the quality and grade guaranteed by the producer. The Act also gives the director authority to establish grades of fresh fruit and vegetables.

C. All cost incurred in providing shipping point and receiving point inspections, other than supervisory costs, must be paid by companies receiving these services. The forms used to administer this law are on file with the secretary of state. Rules pertaining to this Act are filed under Chapter 50 of this division.]

(2) The Plant Industries Division is administered by the divisional director and administrative staff with the main offices located at 1616 Missouri Blvd., Jefferson City, MO 65109.

(A) The mailing address is: Plant Industries Division, Missouri Department of Agriculture, P[.JO/.] Box 630, Jefferson City, MO 65102. Telephone (314) 751-2462 or (314) 751-4310.

(B) The following laboratories and outlying offices are functions of the Plant Industries Division:

1. Feed Control Laboratory, *[2634 C Industrial Drive]* **115 Constitution Drive**, Jefferson City, Missouri. Mail should be sent to P[.JO/.] Box 630, Jefferson City, MO 65102; **and**

2. Seed Control Laboratory, *[1616 Missouri Blvd.]* **115 Constitution Drive**, Jefferson City, Missouri. Mail should be sent to P[.JO/.] Box 630, Jefferson City, MO 65102; *[and]*.

[3. Horticultural Inspection Office, Monett, Missouri. Mailing address is P. O. Box 511, Monett, MO 65708;]

AUTHORITY: section 536.023, RSMo [1986] 2016. Original rule filed April 9, 1976, effective July 15, 1976. Amended: Filed April 16, 1990, effective Sept. 28, 1990. Amended: Filed June 14, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivision 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, ATTN: John Brunnert, 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 70—Plant Industries Chapter 10—Missouri Plant Law Rules

PROPOSED AMENDMENT

2 CSR 70-10.080 Certification Requirements. The department is deleting sections (1)–(7) and renumbering those renumbered sections.

PURPOSE: This amendment removes regulatory inspections that are no longer relevant.

PURPOSE: This rule sets forth the procedures for [specialized inspections and] certification of [all the following: bramble plants, strawberry plants, sweet potato seed, sweet potato plants, vegetable transplants, out-of-state growers of sweet potatoes and vegetable transplants, any plants not listed in the Missouri Plant Law and collected native wild plant material] native wild plant material, virus-free fruit tree nursery stock, and virus-free grapevine nursery stock.

[(1) Applications for bramble plant certification must be made before May 15. Two (2) field inspections shall be required for the certification of bramble plants. The first inspection shall be made in the early spring prior to the time of fruit setting and the second inspection during early fall before freezing stops growth.

(2) For the regular certification of strawberry plants, applications must be made before May 15. Two (2) field inspections shall be required for certification. The first inspection shall be made in early spring prior to the time of fruit setting and the second inspection during early fall before freezing stops growth.

(A) Strawberries must be grown in a manner that will prevent mixing of different varieties.

(B) A minimum of six feet (6') must be maintained between rows of different varieties.

(3) Virus disease certification of strawberry plants is provided for under this section. Certified plants advertised or sold with reference to freedom from infectious viruses must meet one (1) of the three (3) following classifications:

(A) Plants bearing the gold tag, registered strawberry virus certificate must be the increase directly from indexed plants at a state experiment station or other approved indexed source. Registered plants must have been grown under screen house or other insect-free conditions;

(B) Plants bearing the blue tag, virus-free certificate must not be over two (2) generations (seasons) from state-approved plants indexed to be free of infectious viruses. State recommended and supervised virus control program must have been followed satisfactorily; and

(C) Plants bearing the green tag, virus-free certificates must be from sources known and Missouri approved or certified to be essentially free of all known infectious strawberry viruses. They must not be over three (3) generations (seasons) from state-approved indexed plants. The strawberry virus control program being currently recommended by the state must have been satisfactorily followed.

(4) Sweet potato seed inspection is optional and any grower desiring to produce certified sweet potato seed must apply to the state entomologist not later than July 1 for inspection. The following provisions and rules shall apply to these inspections and certifications:

(A) Certified sweet potato seed requires three (3) inspections—two (2) in the field and the third in storage. A sweet potato certificate will be issued to the grower after three (3) satisfactory inspections have been made. The first two (2) field inspections will be made thirty (30) days apart during the growing season. Each variety must be grown separately, row by row. Mixed varieties within the row will disqualify for certification. The presence of sweet potato weevil or more than two percent (2%) of the plants per acre infected with stem rot or wilt, or both, also will disqualify for certification. The sweet potato fields must be rogued free of diseased and off-type plants and be ready for inspection at the time requested. The third inspection will be made while the potatoes are in storage. The storage house, hampers or other containers must be thoroughly cleaned and disinfected with formaldehyde solution containing one (1) pint of formaldehyde to thirty (30) gallons of water, or other approved disinfectants, before sweet potato seed is stored. Seed potatoes must be segregated and stored apart from table or ungraded stock; and

(B) There are two (2) types of certification for seed sweet potatoes, the regular certification and the special, gold tag certification—

1. Regular certification will be refused for any of the following: when more than one percent (1%) of the sweet potatoes in a lot, inspected during the storage inspection, are found to be infected with black rot; when more than two percent (2%) of other diseases such as scurf, pox, charcoal rot and others are found in a lot, the entire lot will be refused; and when the total percent of infections for all diseases exceeds four percent (4%). If sweet potatoes and table stock are stored in the same house or other storage place, they must be in separate containers and separate lots. All seed potatoes must be arranged in a way that they are easily accessible for inspection; and

2. Special, gold tag certification requires a zero (0) tol-

erance for internal cork virus disease; a one-half percent (1/2%) tolerance on black rot disease; and a total of not more than one percent (1%) for all diseases. Potatoes carrying the special gold tag certificate must be in separate containers and set apart from any other stock.

(5) Sweet potato plant or slip inspection is optional and any person desiring to produce certified plants will be issued a certificate of sweet potato plant inspection by the state entomologist when the following provisions are met:

(A) The grower shall furnish certified evidence of the origin of his/her certified sweet potato seed and his/her plant beds must pass a satisfactory inspection for freedom from plant pests. In addition s/he must sign a statement that s/he has complied with the following requirements:

1. That s/he has bedded only certified sweet potato seed. A grower cannot bed both certified and noncertified seed. A plant grower cannot sell both certified and noncertified plants;

2. That before bedding, for the purpose of producing certified plants for sale, all sweet potato seed was hand culled carefully and all potatoes with any spots or rots were discarded;

3. That before bedding, all sweet potato seed was dipped to prevent disease in accordance with recommendations of the University of Missouri Extension Division;

4. That the sweet potato seed was bedded in soil in which sweet potatoes had never been grown;

5. That the hot beds are located where drainage will not wash into them from barnyards, sweet potato houses or infected fields;

6. That all old hot beds were thoroughly cleaned and disinfected with formaldehyde (one (1) pint to thirty (30) gallons of water) or other state-approved disinfectants; and

7. That manure was not used in or on hot beds. Some method of heating the beds must be used; and

(B) When moving certified sweet potato plants, a copy of the certificate must be attached to each separate bundle, package, basket, crate or container holding certified sweet potato plants or slips.

(6) Vegetable transplant inspection is optional and is provided for any grower desiring to produce certified vegetable transplants. Application for inspection must be made with the office of the state entomologist at least thirty (30) days prior to shipments. A certificate of inspection may be issued after the first inspection. Reinspections may be made, and reports of inspections issued, as often as every ten (10) days during the growing season, depending upon the requirements of the state of destination.

(7) Out-of-state sweet potato growers or any other individual or company must obtain a sweet potato permit-certificate from the Missouri state entomologist in order to ship seed sweet potatoes, sweet potato plants, slips, vines or cuttings into this state. Their permit-certificate must be attached to each package or container.

(A) Each nonresident individual or company shall file with the state entomologist a grower's statement and a copy of the certificate of inspection issued by the proper authorities within the state in which they were grown, certifying that an authorized inspector has inspected the plants or plant parts and found them to be free from plant pests. On compliance with these requirements, the state entomologist will issue a sweet potato permit-certificate without charging a fee.

(B) Out-of-state vegetable transplant growers must file, with the Missouri state entomologist, a grower's statement and a copy of their certificate of inspection certifying that an

authorized inspector has inspected the vegetable transplants and found them to be free from plant pests.]

[(8)](1) The inspection of collected native wild plant material is required and is provided for in this section. Whenever an individual offers for sale collected native wild plant material, it shall be advertised and sold as such. The buyer must be informed as to the nature of this stock and all shipments must bear a collected native wild plant inspection certificate. Certification shall be on the basis of inspection of the collecting range or periodic inspections of plant material being sold.

[(9)](2) Fruit tree virus disease certification of nursery stock is provided for under this section. Certified nursery stock advertised or sold with reference to freedom from virus and virus-like disease and sources of propagating material for virus-certified nursery stock shall meet one (1) of the following classifications:

(A) Cooperating nurseries may register parent trees with the Missouri Department of Agriculture to serve as source material for scion blocks. These trees will be known as Registered Parent Trees. Registered Parent Trees shall meet the following requirements:

1. The source of budwood for Registered Parent Trees shall be either the Interregional Research Project (IR-2), another government-approved virus-free repository or a source indexed and visually inspected for freedom from virus infection under the supervision of the Missouri Department of Agriculture for the following diseases:

A. Malus sources shall be indexed for freedom from stem pitting, stem grooving, spy lethal, bud necrosis, and chlorotic leaf spot. These sources shall have borne fruit and shall be inspected visually for other infectious abnormalities such as scar skin, rubbery wood, mosaic, and flat limb;

B. Pyrus sources shall have borne fruit and shall be inspected visually for foliar and fruit abnormalities of a genetic or infectious nature;

C. Prunus sources shall be indexed for freedom from prunus ring spot virus, prune dwarf virus, and green ring mottle. They shall have borne fruit and shall be inspected visually for foliar and fruit abnormalities of a genetic or infectious nature; and

D. The Missouri Department of Agriculture may require the indexing for any additional virus diseases as it shall determine necessary;

2. The source of understock for Registered Parent Trees shall be one (1) of the following:

A. True seedlings of Malus or Pyrus;

B. Clonal understocks indexed and certified for freedom from virus by the Missouri Department of Agriculture or the department of agriculture of another state or country whose certificate is acceptable to the Missouri Department of Agriculture; and

C. Prunus seedlings from seed from trees indexed and certified for freedom from seed-borne virus by the Missouri Department of Agriculture or a certifying body acceptable to the Missouri Department of Agriculture;

3. Registered Parent Trees shall be maintained in isolation from noncertified trees of the same genus. Malus and Pyrus shall have at least one hundred fifty feet (150') of isolation. Prunus shall have at least one-fourth (1/4) mile of isolation;

4. All Registered Parent Trees shall be inspected visually at least once a year under the supervision of the Missouri Department of Agriculture;

5. Registered Parent Trees may be indexed at any time at the discretion of the Missouri Department of Agriculture;

6. Any Registered Parent Tree found infected with virus shall be removed within no more than ten (10) days of receipt of notice from the Missouri Department of Agriculture;

7. The nursery shall provide the Missouri Department of Agriculture with charts showing the location and variety of each Registered Parent Tree. The nursery's records of the indexing and maintenance history of these trees shall be available for inspection by

the Missouri Department of Agriculture during normal business hours after reasonable notice;

8. The nursery shall notify the Missouri Department of Agriculture before adding any tree to the Registered Parent Tree growing area; and

9. Registered Parent Trees shall be marked in such a manner as to be easily recognizable to the Missouri Department of Agriculture;

(B) Cooperating nurseries may register groups of trees with the Missouri Department of Agriculture to serve as source material for the propagation of virus-certified nursery stock. These groups of trees will be known as Registered Scion Blocks. Trees in Registered Scion Blocks shall meet the following requirements:

1. The source of budwood for Registered Scion Block Trees shall be from Registered Parent Trees as set forth in subsection *[(9)](2)(A)*, IR-2, or another government-approved virus-free repository;

2. The source of understock for Registered Scion Block Trees shall meet the same standards as understocks for Registered Parent Trees as set forth in paragraph/s *(9)](2)(A)2.*;

3. Registered Scion Blocks shall be maintained in isolation from noncertified trees of the same genus. Malus and Pyrus shall have at least one hundred fifty feet (150') of isolation. Prunus shall have at least four hundred fifty feet (450') of isolation;

4. In any Registered Scion Blocks established after these rules go into effect, whenever there is more than one (1) variety in a row, there shall be a separation of at least ten feet (10') between varieties;

5. All Registered Scion Blocks shall be inspected visually at least once a year under the supervision of the Missouri Department of Agriculture;

6. Registered Scion Block Trees may be reindexed at any time at the discretion of the Missouri Department of Agriculture;

7. Any Registered Scion Block Tree found infected with a virus shall be removed within no more than ten (10) days of receipt of notice from the Missouri Department of Agriculture;

8. The nursery shall provide the Missouri Department of Agriculture with charts showing the location and varieties included in each Registered Scion Block. The nursery's records of the sources of budwood and understock shall be available for inspection by the Missouri Department of Agriculture during normal business hours after reasonable notice;

9. The nursery shall notify the Missouri Department of Agriculture before adding any trees, buds, or understocks to any Registered Scion Block; and

10. Registered Scion Blocks shall be marked in such a manner as to be easily recognizable to the Missouri Department of Agriculture;

(C) Cooperating nurseries may register Prunus trees with the Missouri Department of Agriculture to serve as a source of seed for the production of virus-certified nursery stock, Registered Scion Block Trees, and Registered Parent Trees. These trees will be known as Registered Seed Source Trees. Registered Seed Source Trees shall meet the following requirements:

1. Registered Seed Source Trees shall be either indexed under the supervision of the Missouri Department of Agriculture for freedom from seed-borne viruses or must be propagated from budwood and understock meeting the same requirements as for propagating Registered Scion Block Trees as set forth in paragraphs *[(9)](2)(B)1.* and 2.; and

2. Isolation, inspection, indexing, recordkeeping, and notification requirements shall be the same as for Registered Parent Trees as set forth in paragraphs *[(9)](2)(A)3.-9.*;

(D) Cooperating nurseries may register clonal plantings of self-rooted certified trees with the Missouri Department of Agriculture for the purpose of producing vegetatively-propagated rootstocks. These plantings will be known as Registered Stool Beds and shall meet the following requirements:

1. The source of propagating material for Registered Stool Beds shall meet the same requirements as budwood for Registered Parent Trees as set forth in paragraph *[(9)](2)(A)1.*;

2. Registered Stool Beds shall be maintained in isolation of one hundred fifty feet (150') from noncertified trees of the same genus; and

3. Inspection, reindexing, removal, recordkeeping, and notification requirements shall be the same as for Registered Parent Trees as set forth in paragraphs */(9)/(2)(A)4.-9.*;

(E) Nursery stock bearing the Fruit Tree Budwood and Understock Virus Certificate shall meet the following requirements:

1. The source of budwood for the top variety and interstems shall be Registered Scion Block Trees or Registered Parent Trees as set forth in subsections */(9)/(2)(A)* and (B);

2. The source of understock shall be one (1) of the following:

A. True seedlings of *Malus* or *Pyrus*;

B. Clonal understocks produced in Registered Stool Beds as set forth in subsection */(9)/(2)(D)* or bearing a virus certificate from a certifying body acceptable to the Missouri Department of Agriculture; and

C. Seedlings from seed of Registered Seed Source Trees as set forth in subsection */(9)/(2)(C)* or from seed bearing a virus certificate from a certifying body acceptable to the Missouri Department of Agriculture;

3. The nursery stock shall be grown in blocks separated from noncertified trees of the same genus by at least ten feet (10');

4. In any new plantings of nursery stock under this certification established after these rules go into effect, whenever there is more than one (1) variety in a nursery row, there shall be a separation of at least five feet (5') between varieties;

5. The nursery stock shall be inspected visually at least once a year by the Missouri Department of Agriculture;

6. Samples of nursery stock bearing the Fruit Tree Budwood and Understock Certificate may be indexed at the discretion of the Missouri Department of Agriculture;

7. The nursery shall provide the Missouri Department of Agriculture with charts showing the growing location and quantity of nursery stock produced under this certificate. They also shall provide copies of virus certificates for nursery stock and propagating material received from outside Missouri. The records of sources of propagating material shall be open for inspection by the Missouri Department of Agriculture; and

8. Nursery stock in the field and in storage shall be marked in such a manner as to be easily identifiable to the Missouri Department of Agriculture as virus-certified material;

(F) Nursery stock bearing the Fruit Tree Budwood Virus Certificate shall meet the following requirements:

1. The source of budwood for the top variety and interstems shall be Registered Scion Block Trees or Registered Parent Trees as set forth in subsections */(9)/(2)(A)* and (B);

2. The nursery stock shall be grown in blocks separated from noncertified trees of the same genus by at least ten feet (10');

3. In any new plantings of nursery stock under this certification established after these rules go into effect, whenever there is more than one (1) variety in a nursery row there shall be a separation of at least five feet (5') between varieties;

4. The nursery stock shall be inspected visually at least once a year by the Missouri Department of Agriculture;

5. Samples of nursery stock may be indexed at the discretion of the Missouri Department of Agriculture;

6. The nursery shall provide the Missouri Department of Agriculture with charts showing the growing location and quantity of nursery stock produced under this certification. They also shall provide copies of virus certificates for nursery stock and propagating material received from outside Missouri. The nursery's records of sources of propagating material shall be open for inspection by the Missouri Department of Agriculture during normal business hours after reasonable notice; and

7. Nursery stock in the field and in storage shall be marked in such a manner as to be easily identifiable to the Missouri Department of Agriculture and nursery personnel as virus-certified materi-

al; and

(G) Nursery stock or seed bearing the Fruit Tree Understock Virus Certificate shall meet the following requirements:

1. The source of seed bearing this certificate shall be Registered Seed Source Trees as set forth in subsection */(9)/(2)(C)*. Seedlings bearing this certificate must be grown from seed of Registered Seed Source Trees as set forth in subsection */(9)/(2)(C)* or from seed bearing the virus certificate of a certifying body acceptable to the Missouri Department of Agriculture. Clonal understocks bearing this certificate must be propagated in Registered Stool Beds as set forth in subsection */(9)/(2)(D)*;

2. Seedlings shall be grown in blocks separated from noncertified trees of the same genus by ten feet (10');

3. The nursery stock shall be inspected visually at least once a year by the Missouri Department of Agriculture;

4. Samples of nursery stock or seed bearing the Fruit Tree Understock Virus Certificate may be indexed at the discretion of the Missouri Department of Agriculture;

5. The nursery shall provide the Missouri Department of Agriculture with charts showing the growing location and quantity of nursery stock and seed produced under this certificate. They also shall provide copies of virus certificates of seed received from outside Missouri. The records of sources of propagating materials shall be open for inspection by the Missouri Department of Agriculture; and

6. Nursery stock in the field and in storage and seed in storage shall be marked in such a manner as to be easily identifiable to the Missouri Department of Agriculture as virus-certified material.

/(10)/(3) Grape virus disease certification of nursery stock is optional and is provided for under this section. Grapevines advertised or sold with reference to freedom from virus and virus-like diseases and propagating material for virus-certified grapevines shall meet one (1) of the following classifications:

(A) Foundation blocks shall be registered with the Missouri Department of Agriculture. These will serve as source material for the propagation of registered stock blocks and virus-certified nursery stock and may be located at cooperating nurseries or other locations approved by the Missouri Department of Agriculture and shall meet the following requirements:

1. Propagating wood for foundation blocks shall be from material which has been tested for and found to be apparently free from the following viruses: fanleaf degeneration, leaf-roll, corky bark, American grape decline (peach rosette-mosaic virus), fleck, stem-pitting, tobacco ringspot virus, and tomato ringspot virus;

2. Foundation block vines shall be tested at appropriate intervals by the Missouri Department of Agriculture for the viruses listed in paragraph */(10)/(3)(A)1.*;

3. Foundation blocks shall be at least one hundred feet (100') from land on which noncertified grapevines have been grown within the past ten (10) years;

4. All foundation blocks shall be inspected visually at least twice a year in the spring and in the fall by the Missouri Department of Agriculture;

5. Any foundation block plants found to be infected with virus or virus-like diseases shall be removed under the supervision of the Missouri Department of Agriculture and within ten (10) days of receipt of notice from the department;

6. The Missouri Department of Agriculture shall be provided with charts showing the location and variety of each foundation block plant;

7. The Missouri Department of Agriculture shall be notified before any grapevines are added to a foundation block;

8. Foundation block plants shall be marked in such a manner as to be easily recognizable to the Missouri Department of Agriculture; and

9. The Missouri Department of Agriculture may require such treatments or precautionary measures as may be necessary to protect

against infection or infestation with the viruses listed in paragraph [(10)](3)(A)1.;

(B) Registered Stock Block—Cooperating nurseries shall register stock block plants with the Missouri Department of Agriculture. These may serve as a source of propagating material for nursery stock. Plantings of these vines will be known as Registered Stock Blocks and shall meet the following requirements:

1. Propagating wood for Registered Stock Blocks shall originate from foundation blocks or from grapevines which meet or exceed the Missouri requirements for foundation block plants;

2. Registered Stock Block plants may be tested for infection by viruses at any time at the discretion of the Missouri Department of Agriculture; and

3. Requirements of paragraphs [(10)](3)(A)3.–9. also shall apply to Registered Stock Blocks;

(C) Nursery stock bearing the Grapevine Virus Certificate shall meet the following requirements:

1. The source of propagating wood shall be registered stock block vines, foundation block vines or propagating wood which meets the requirements of Registered Stock Block vines;

2. Samples of nursery stock bearing the Grapevine Virus Certificate may be virus-tested at the discretion of the Missouri Department of Agriculture;

3. The nursery stock shall be planted at least one hundred feet (100') from land on which noncertified grapevines have been grown within the past ten (10) years. This also includes container-grown stock;

4. The propagating area shall be disinfected in a manner approved by the Missouri Department of Agriculture any time it is utilized for the propagation of grape plants that do not meet the virus-free certification requirements;

5. The nursery stock shall be inspected at least once a year by the Missouri Department of Agriculture;

6. The nursery shall provide the Missouri Department of Agriculture with the charts showing the growing location and quantity of nursery stock produced under this certificate;

7. Nursery stock in propagating areas in the field and in storage shall be marked in such a manner as to be easily recognizable to the Missouri Department of Agriculture as virus-certified material; and

8. Nursery stock shall remain in the nursery row for no more than two (2) growing seasons; and

(D) Foundation container grapevines, grown in greenhouses, which are isolated from noncertified grapevines, may be registered with the Missouri Department of Agriculture to serve as propagating material for virus-certified nursery stock and virus-certified stock plants, and shall meet the following requirements:

1. Propagating wood for foundation container grapevines shall have been tested and found to be apparently free from the viruses listed in paragraph [(10)](3)(A)1.;

2. Requirements set forth for foundation blocks in paragraphs [(10)](3)(A)3.–9. shall apply to foundation container grapevines; and

3. Nursery stock propagated from foundation container grapevines bearing the Grapevine Virus Certificate shall be no more than four (4) cutting generations removed from plants which have been tested for and found to be apparently free from the diseases listed in paragraph [(10)](3)(A)1.

AUTHORITY: section 263.040, RSMo [1986] 2016. Original rule filed Aug. 4, 1958, effective Aug. 14, 1958. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 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, ATTN: John Brunnert, 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 70—Plant Industries Chapter 11—Missouri Plant Law Quarantines

PROPOSED RESCISSION

2 CSR 70-11.020 Japanese Beetle Intrastate Quarantine. This rule was enacted to prevent the spread of a serious insect pest, known as the Japanese beetle, within this state and to other uninfested states and to establish those areas which are to be regulated.

PURPOSE: This quarantine is no longer viable for species control.

AUTHORITY: sections 263.040 and 263.050, RSMo 1986. Original rule filed Sept. 10, 1959, effective Sept. 20, 1959. For intervening history, please consult the Code of State Regulations. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries Chapter 11—Missouri Plant Law Quarantines

PROPOSED RESCISSION

2 CSR 70-11.030 Pink Bollworm Intrastate Quarantine. This rule was enacted to prevent the spread of a serious insect pest, known as the Pink Bollworm, *Pectinophora gossypiella*, to other uninfested areas of the State of Missouri, and other states, and to establish those articles and areas which are to be regulated. *Pectinophora gossypiella* (Saunders).

PURPOSE: This quarantine is no longer viable for species control.

AUTHORITY: sections 263.040, RSMo 1986 and 263.050, RSMo Supp. 1993. Original rule filed Dec. 10, 1974, effective Dec. 20, 1974. For intervening history, please consult the Code of State Regulations. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 11—Missouri Plant Law Quarantines**

PROPOSED RESCISSION

2 CSR 70-11.050 Emerald Ash Borer Intrastate Quarantine. This rule was enacted to prevent the spread of a serious insect pest, known as the Emerald Ash Borer, *Agrilus planipennis* Fairmaire to other uninfested areas of the state of Missouri, and other states, and to establish those articles and areas which are to be regulated.

PURPOSE: This quarantine has been superseded by a federal quarantine.

AUTHORITY: sections 263.040, 263.050, and 263.180, RSMo 2000. Emergency rule filed Aug. 18, 2008, effective Aug. 28, 2008, expired Feb. 26, 2009. Original rule filed Dec. 18, 2008, effective July 30, 2009. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 12—Sustainable Agriculture**

PROPOSED RESCISSION

2 CSR 70-12.010 Sustainable Agriculture Demonstration Awards. This rule was enacted to set forth the requirement for funding the development and coordination of demonstration projects on the lands of individual farmers in this state under actual farming conditions that will reduce the dependency of food and fiber production on non-renewal inputs.

PURPOSE: The statutory authority for this rule was repealed in 2012 (H.B. 1608).

AUTHORITY: section 261.105, RSMo 1994. Original rule filed Nov. 9, 1994, effective April 30, 1995. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 15—Missouri Apiary Law Rules**

PROPOSED RESCISSION

2 CSR 70-15.035 Elimination of American Foulbrood Disease. This rule was enacted to establish acceptable methods of eliminating American foulbrood disease from the apiary.

PURPOSE: This action will clarify existing apiary rules by uniformly addressing control measures for all apiary arthropod pests and diseases in 2 CSR 70-15.045.

AUTHORITY: section 264.095, RSMo 1986. Original rule filed Oct. 12, 1978, effective Feb. 1, 1979. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 15—Missouri Apiary Law Rules**

PROPOSED AMENDMENT

2 CSR 70-15.045 [The Elimination of Diseases Other Than American Foulbrood] Control of Apiary Arthropod Pests and Diseases. The director is amending the title, purpose statement, and section (1).

PURPOSE: This amendment clarifies apiary pest and disease certification.

PURPOSE: This rule establishes how [disease other than American foulbrood shall] apiary arthropod pests and diseases will be dealt with prior to certification of the colony.

(1) The [elimination of diseases other than American foulbrood shall] control of apiary arthropod pests and diseases will be dealt with on an individual basis. Apiary inspectors will determine whether certification is possible. Written recommendation will be given for those arthropod pests and diseases that require some

type of treatment for control. When certification is withheld, reinspection will be made within a six (6)-month period.

AUTHORITY: section 264.095, RSMo [1986] 2016. Original rule filed Oct. 12, 1978, effective Feb. 1, 1979. Amended: Filed June 14, 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, ATTN: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program

PROPOSED RESCISSION

2 CSR 70-16.010 Definitions of the Missouri Department of Agriculture Organic Program. This rule defined terms to be used when implementing the Missouri Department of Agriculture Organic Program.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program

PROPOSED RESCISSION

2 CSR 70-16.015 The Adoption of NOP Standards. This rule outlined the portions of NOP 7 CFR, Part 205 that were adopted as Missouri Department of Agriculture (MDA) Organic Program standards.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program

PROPOSED RESCISSION

2 CSR 70-16.020 MDA Organic Program Advisory Board. This rule established a Missouri Department of Agriculture (MDA) Organic Program Advisory Board and defined its duties.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program

PROPOSED RESCISSION

2 CSR 70-16.025 Procedures for Organic Certification. This rule outlined the procedures for application for organic certification or

recertification by the Missouri Department of Agriculture (MDA) Organic Program, with associated fees.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program**

PROPOSED RESCISSION

2 CSR 70-16.030 Records to be Maintained for Certification. This rule described the records that organic entities maintained for organic certification or recertification by the Missouri Department of Agriculture (MDA) Organic Program.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program**

PROPOSED RESCISSION

2 CSR 70-16.035 Inspections and Sampling for Certification. This rule outlined procedures that the Missouri Department of Agriculture (MDA) Organic Program utilized for inspections and sampling of certification applicants and certified organic entities.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program**

PROPOSED RESCISSION

2 CSR 70-16.040 Complaints and Investigations. This rule outlined the criteria that the program used to determine when to investigate complaints.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program

PROPOSED RESCISSION

2 CSR 70-16.045 Compliance Enforcement. This rule outlined the criteria that the program used to determine when to implement compliance enforcement actions, and the procedures followed for the compliance actions.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program

PROPOSED RESCISSION

2 CSR 70-16.050 Certificates Issued as Result of Certification with the MDA Organic Program. This rule outlined procedures for issuing certificates to organic entities that were certified by the program.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program

PROPOSED RESCISSION

2 CSR 70-16.055 MDA Organic Program Seal. This rule established a Missouri Department of Agriculture (MDA) Organic Program Seal, and the criteria for use of the seal.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program

PROPOSED RESCISSION

2 CSR 70-16.060 Registration with the MDA Organic Program. This rule outlined procedures for organic entities to be registered with the program, with associated fees.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program**

PROPOSED RESCISSION

2 CSR 70-16.065 Inspection and Sampling for Registration. This rule outlined inspection and sampling procedures of applicants and registrants with the program.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program**

PROPOSED RESCISSION

2 CSR 70-16.070 Marketing When Registered with the MDA Organic Program. This rule described the use of the "Registered by the MDA Organic Program" logo.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 16—Missouri Department of Agriculture
Organic Program**

PROPOSED RESCISSION

2 CSR 70-16.075 Organic Certifying Agent Registration. This rule outlined the procedures for certifying agents that certified organic entities in the state of Missouri to register with the program.

PURPOSE: This rule is being rescinded as the Missouri Department of Agriculture Organic Program is no longer an accredited certifier for the United States Department of Agriculture's National Organic Program.

AUTHORITY: section 261.110, RSMo Supp. 2002. Original rule filed Jan. 3, 2003, effective Aug. 30, 2003. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 25—Pesticides**

PROPOSED RESCISSION

2 CSR 70-25.070 Requirements for Certified Commercial Applicators or Public Operators in Structural Pest Control. This rule set forth the qualifications required for those persons who wished to be certified as commercial applicators or public operators in the category of structural pest control. This category is described in 2 CSR 70-25.100(5)(G). The rule set forth training and experience requirements for those individuals to be certified in this category.

PURPOSE: Rescission of this rule will bring Missouri's requirements for structural applicators in line with surrounding states and will eliminate a barrier to new companies entering the pest control industry.

AUTHORITY: section 281.025, RSMo Supp. 1989. Original rule filed

May 12, 1976, effective Oct. 21, 1976. Amended: Filed July 8, 1977, effective Oct. 14, 1977. Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND 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: John Brunnert, 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**. A public hearing is scheduled for 2:00 p.m., Wednesday, September 5, 2018, in the second floor conference room at 1616 Missouri Boulevard, Jefferson City, MO, 65109.

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 35—Seed Regulation

PROPOSED AMENDMENT

2 CSR 70-35.010 Definitions. The division is amending the rule purpose and sections (1) and (2).

PURPOSE: This amendment updates names of plants that produce noxious weed seeds and clarifies what seed is subject to regulation.

PURPOSE: This rule designates what plants' seeds are agricultural [(crop)] seeds for labeling purposes and also designates restricted weed[s'] seeds. Both agricultural [(crop)] seed and restricted weed[s'] seeds content must be declared on the label to comply with the statute, but the seed of plants making up these lists are not specified by statute.

(1) Agricultural Seeds. Agricultural [crop] seeds will be those listed as agricultural seeds in the Federal Seed Act, 7 CFR Section 201.2[(L)](h), January (1976).

(2) Restricted Weed[s'] Seeds.

(A) Prohibited Weed[s'] Seeds. The seeds of **the following** plants: balloon vine (*Cardiospermum halicacabum*), Canada thistle (*Cirsium arvense*), field bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum halepense*), musk thistle (*Carduus nutans*), serrated tussock (*Nassella trichotoma*) and sorghum alnum (*Sorghum alnum*).

(B) Noxious Weed[s'] Seeds. The seeds of **the following** plants: plants commonly known as docks of the [(Rumex species)] (red sorrel, curly dock, etc.), dodders (*Cuscuta species*), buckhorn (*Plantago lanceolata*), eastern black night-shade (*Solanum ptycanthum*), giant foxtail (*Setaria faberi*), hedge bindweed (*Convolvulus sepium*), leafy spurge (*Euphorbia esula*), hoary cress (*Cardaria draba*), purple moon[]flower [(*Calonyction muricatum*)] **Ipomoea muricata**, quackgrass [(*Agropyron*)] **Elymus repens**, Russian thistle (*Salsola pestifer*), slender oats (*Avena barbata*), wild garlic (*Allium vineale*), wild oats (*Avena fatua*), wild onion (*Allium canadense*) and yellow star thistle (*Centaurea solstitialis*) are designated as noxious and are subject to listing on seed labels according to the requirements of the Missouri Seed Law, sections 266.[021]011 to 266.111, RSMo [(1986)].

AUTHORITY: section 266.091, RSMo [1986] 2016. Original rule

filed June 6, 1952, effective June 16, 1952. For intervening history, please consult the Code of State Regulations. Amended: Filed June 14, 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, ATTN: John Brunnert, 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 70—Plant Industries Chapter 35—Seed Regulation

PROPOSED RESCISSION

2 CSR 70-35.031 Licensing. This rule specified the kind of actual seed sales facility obligated to purchase a seed sales permit in compliance with section 266.031, RSMo (1986) and also emphasized the need for both retail and wholesale places to purchase a permit.

PURPOSE: The rule is redundant to statute and should be rescinded.

AUTHORITY: section 266.091, RSMo 1994. Original rule filed Sept. 28, 1979, effective March 13, 1980. Amended: Filed April 10, 1995, effective Oct. 30, 1995. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries Chapter 40—Missouri Treated Timber Products Law Rules

PROPOSED RESCISSION

2 CSR 70-40.005 Treated Timber Definitions. This rule defined terms used throughout the Treated Timber Law.

PURPOSE: Missouri is the last state to maintain regulation of treated timber dealers and producers. Removing regulations will provide consistency in the industry.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Aug. 27, 2008, effective March 30, 2009. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 40—Missouri Treated Timber Products Law
Rules**

PROPOSED RESCISSION

2 CSR 70-40.015 Standards for Treated Timber. This rule established standards to be used by anyone selling or offering for sale treated timber products in the state of Missouri.

PURPOSE: Missouri is the last state to maintain regulation of treated timber dealers and producers. Removing regulations will provide consistency in the industry.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Oct. 10, 1980, effective Feb. 1, 1981. For intervening history, please consult the Code of State Regulations. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 40—Missouri Treated Timber Products Law
Rules**

PROPOSED RESCISSION

2 CSR 70-40.016 Producers to Follow Pesticide Label. This rule specified the federal and state laws that pertained to the wood preservative chemicals as pesticides and clarified that label directions for these chemicals must be followed in accordance with these laws.

PURPOSE: Missouri is the last state to maintain regulation of treated timber dealers and producers. Removing regulations will provide

consistency in the industry.

AUTHORITY: section 280.050, RSMo 1986. Original rule filed Dec. 16, 1985, effective May 15, 1986. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 40—Missouri Treated Timber Products Law
Rules**

PROPOSED RESCISSION

2 CSR 70-40.017 Preservatives Required to be Registered Pesticides. This rule clarified that all wood preservatives used must be registered with or exempted from registration with the Environmental Protection Agency before they may be used.

PURPOSE: Missouri is the last state to maintain regulation of treated timber dealers and producers. Removing regulations will provide consistency in the industry.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Feb. 6, 2008, effective Sept. 30, 2008. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 40—Missouri Treated Timber Products Law
Rules**

PROPOSED RESCISSION

2 CSR 70-40.025 Standards for Inspection, Sampling and Analyses. This regulation established guidelines for standards of inspection, sampling and analysis of treated timber products.

PURPOSE: Missouri is the last state to maintain regulation of treated

timber dealers and producers. Removing regulations will provide consistency in the industry.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Oct. 10, 1980, effective Feb. 1, 1981. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 40—Missouri Treated Timber Products Law
Rules

PROPOSED RESCISSION

2 CSR 70-40.040 Branding of Treated Timber. This rule required each treated timber company to brand, for identification purposes, all treated timber products sold in Missouri.

PURPOSE: Missouri is the last state to maintain regulation of treated timber dealers and producers. Removing regulations will provide consistency in the industry.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed March 8, 1962, effective March 18, 1962. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 40—Missouri Treated Timber Products Law
Rules

PROPOSED RESCISSION

2 CSR 70-40.050 Requirements for Treated Timber Invoices and Manifests. This rule required a company to show an invoice, including the type of treating process, the kind of preservatives and amount

of preservatives retained in the material being sold.

PURPOSE: Missouri is the last state to maintain regulation of treated timber dealers and producers. Removing regulations will provide consistency in the industry.

AUTHORITY: section 280.050, RSMo 1986. Original rule filed March 8, 1962, effective March 18, 1962. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 14, 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: John Brunnert, 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 70—Plant Industries
Chapter 40—Missouri Treated Timber Products Law
Rules

PROPOSED RESCISSION

2 CSR 70-40.055 Sale or Distribution of Wood Products Similar in Appearance to Treated Timber—Identification—Penalties. This rule provided a method of distinguishing between timber products dipped in nonpreservatives and timber products treated according to the Missouri Treated Timber Law. This rule also specified that a violation is punishable under section 407.110, RSMo 1986, the Missouri Merchandising Practices Act.

PURPOSE: Missouri is the last state to maintain regulation of treated timber dealers and producers. Removing regulations will provide consistency in the industry.

AUTHORITY: section 280.050, RSMo 2000. Original rule filed Dec. 16, 1985, effective May 15, 1986. Rescinded: Filed Feb. 6, 2008, changed to amended June 23, 2008, effective Sept. 30, 2008. Rescinded: Filed June 14, 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: John Brunnert, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 2—Beginning Farmer Loan Program**

PROPOSED RESCISSION

2 CSR 100-2.010 Definitions. This rule stated the meaning of terms used by the Agricultural and Small Business Development Authority in the Beginning Farmer Loan Program.

PURPOSE: This rule is being rescinded as it is not necessary for implementation of the program.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed July 12, 1984, effective Oct. 11, 1984. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 2—Beginning Farmer Loan Program**

PROPOSED RESCISSION

2 CSR 100-2.020 Applicant Eligibility Requirements. This rule had set forth the requirements which must be met by the applicant in order to be an eligible borrower for a loan under this program.

PURPOSE: This rule is being rescinded as it is not necessary for implementation of the program.

AUTHORITY: section 348.075, RSMo 2000. Original rule filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Feb. 11, 2009, effective Aug. 30, 2009. Amended: Filed July 30, 2015, effective Jan. 30, 2016. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 2—Beginning Farmer Loan Program**

PROPOSED RESCISSION

2 CSR 100-2.030 Time and Manner of Filing Application. This rule had set forth the requirements for the time and manner of filing applications for loans under this program.

PURPOSE: This rule is being rescinded as it is not necessary for implementation of the program.

AUTHORITY: section 348.075, RSMo 2000. Original rule filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Feb. 11, 2009, effective Aug. 30, 2009. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 2—Beginning Farmer Loan Program**

PROPOSED RESCISSION

2 CSR 100-2.040 Fees. This rule had set forth the fee structure for this program.

PURPOSE: This rule is being rescinded as it is not necessary for implementation of the program.

AUTHORITY: section 348.075, RSMo 2000. Original rule filed July 12, 1984, effective Oct. 11, 1984. For intervening history, please consult the Code of State Regulations. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 2—Beginning Farmer Loan Program

PROPOSED RESCISSION

2 CSR 100-2.050 Conditions for Execution of Agricultural and Small Business Development Authority Agreement. This rule had set forth the conditions for execution of the loan agreement.

PURPOSE: This rule is being rescinded as it is not necessary for implementation of the program.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed July 12, 1984, effective Oct. 11, 1984. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 3—Conservation Reserve Enhancement Program

PROPOSED RESCISSION

2 CSR 100-3.010 General Organization. This rule complied with section 536.023, RSMo 1986 which required each agency to adopt as a rule a description of its operation and the methods by which the public may obtain information or make submissions or requests.

PURPOSE: This rule is being rescinded as the Conservation Reserve Enhancement Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 536.023, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 3—Conservation Reserve Enhancement Program

PROPOSED RESCISSION

2 CSR 100-3.020 Definitions. This rule described terms used by the Agricultural and Small Business Development Authority in administering the Conservation Reserve Enhancement Program.

PURPOSE: This rule is being rescinded as the Conservation Reserve Enhancement Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 3—Conservation Reserve Enhancement Program

PROPOSED RESCISSION

2 CSR 100-3.030 Criteria Relating to Participating Borrowers, Participating Lenders and Agricultural Development Loans. This rule had set forth the fee structure and the requirements which the applicant must meet to be an eligible borrower for a loan under this program.

PURPOSE: This rule is being rescinded as the Conservation Reserve Enhancement Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 3—Conservation Reserve Enhancement Program

PROPOSED RESCISSION

2 CSR 100-3.040 Procedure for the Purchase or Participation of Eligible Loans. This rule had set forth the procedures for the approval of loans to be purchased under this program.

PURPOSE: This rule is being rescinded as the Conservation Reserve Enhancement Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 3—Conservation Reserve Enhancement Program

PROPOSED RESCISSION

2 CSR 100-3.050 Amendments. This rule had set forth the conditions under which amendments to the program will be made.

PURPOSE: This rule is being rescinded as the Conservation Reserve Enhancement Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 4—Small Business Development Loan Program

PROPOSED RESCISSION

2 CSR 100-4.010 General Organization. This rule complied with section 536.023, RSMo 1986 which requires each agency to adopt as a rule a description of its operation and the methods by which the public may obtain information or make submissions or requests.

PURPOSE: This rule is being rescinded as the Small Business Development Loan Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 536.023, RSMo 1986. Original rule filed Aug. 13, 1991, effective Jan. 13, 1992. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 4—Small Business Development Loan Program

PROPOSED RESCISSION

2 CSR 100-4.020 Definitions. This rule described terms used by the Agricultural and Small Business Development Authority in administering the small business development loan program.

PURPOSE: This rule is being rescinded as the Small Business Development Loan Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 13, 1991, effective Jan. 13, 1992. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 4—Small Business Development Loan Program

PROPOSED RESCISSION

2 CSR 100-4.030 Criteria Relating to Participating Borrowers, Participating Lenders and Small Business Loans. This rule had set forth the fee structure and the requirements which the applicant must have met to be an eligible borrower for a loan under this program.

PURPOSE: This rule is being rescinded as the Small Business Development Loan Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 13, 1991, effective Jan. 13, 1992. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 4—Small Business Development Loan Program

PROPOSED RESCISSION

2 CSR 100-4.040 Procedure for the Purchase or Participation of Eligible Loans. This rule had set forth the procedure for the approval of loans to be purchased under this program.

PURPOSE: This rule is being rescinded as the Small Business Development Loan Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 13, 1991, effective Jan. 13, 1992. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 4—Small Business Development Loan Program

PROPOSED RESCISSION

2 CSR 100-4.050 Amendments. This rule had set forth the conditions under which amendments to the program would be made.

PURPOSE: This rule is being rescinded as the Small Business Development Loan Program is no longer utilized and the rules are not required by statute.

AUTHORITY: section 536.023, RSMo 1986. Original rule filed Aug. 13, 1991, effective Jan. 13, 1992. Rescinded: Filed June 14, 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, 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 100—Missouri Agricultural and Small Business
Development Authority
Chapter 10—New Generation Cooperative Incentive Tax
Credit Program

PROPOSED AMENDMENT

2 CSR 100-10.010 Description of Operation, Definitions, and Method of Distribution and Repayment of Tax Credits. The Missouri Agricultural and Small Business Development Authority is amending section (2) and subsection (3)(A).

PURPOSE: This amendment changes the priority for tax credit allocation and updates the sunset to reflect current statute.

(2) Definitions/. *As used in this rule, the following shall mean*:

(3) Operation of the Program.

(A) Application—New generation cooperative applicants may submit applications to the authority on a continuous basis. *[In Fiscal Year 2001 through December 31, 2016 (when the tax credit provision expires), u/Up to six (6) million dollars in tax credits are available per fiscal year. Of these tax credit allocation amounts, each year the authority will reserve ten percent (10%) of the credits for “small capital projects.” The balance of tax credits will be available to “large capital projects” and “employee qualified capital projects.” After December 31 of each year, the authority will release any unallocated “small capital project” tax credits for “large capital projects” and “employee qualified capital projects” or any unallocated “large capital projects” and “employee qualified capital projects” tax credits to “small capital projects.”*

AUTHORITY: section 348.432, RSMo [Supp. 2008] 2016. Original rule filed July 26, 2001, effective Jan. 30, 2002. Amended: Filed Dec. 15, 2004, effective June 30, 2005. Amended: Filed Feb. 11, 2009, effective Aug. 30, 2009. Amended: Filed June 14, 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 Agricultural and Small Business Development Authority, PO Box 630, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.110 Filing Requirements for Electric Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets. Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.110.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.115 Filing Requirements for Electric Utility Applications for Authority to Merge or Consolidate. Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.115.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.120 Filing Requirements for Electric Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness. Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule

will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.120.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.125 Filing Requirements for Electric Utility Applications for Authority to Acquire the Stock of a Public Utility. Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.125.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service

Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.165 Annual Report Submission Requirements for Electric Utilities. Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by electric utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.165.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.210 Filing Requirements for Gas Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets. Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.210.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.215 Filing Requirements for Gas Utility Applications for Authority to Merge or Consolidate. Applications to the commis-

sion for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.215.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.220 Filing Requirements for Gas Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness. Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.220.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.225 Filing Requirements for Gas Utility Applications for Authority to Acquire the Stock of a Public Utility. Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.225.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit

additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.245 Annual Report Submission Requirements for Gas Utilities. Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by gas utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.245.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.270 Submission Requirements Regarding Plans, Procedures and Programs for the Transportation of Natural Gas by Pipeline. This rule set forth the plans, procedures and programs related to the transportation of natural gas by pipelines, which were to be submitted to designated commission personnel under various provisions of 4 CSR 240-40.

PURPOSE: This rule is being rescinded in its entirety and consolidated into 4 CSR 240-40.030 in order to simplify and improve rules by streamlining and eliminating duplicative requirements.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. GX-2018-0279. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for August 20, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.280 Submission Requirements Regarding Gas Utility Written Drug and Alcohol Testing Plans. This rule prescribed the requirements for submitting drug and alcohol testing plans for natural gas corporations, which were further described in 4 CSR 240-40.080.

PURPOSE: This rule is being rescinded in its entirety and consolidated into 4 CSR 240-40.030 in order to simplify and improve rules by streamlining and eliminating duplicative requirements.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. GX-2018-0279. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for August 20, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.290 Submission Requirements Regarding Gas Utility Incident, Annual and Safety-Related Condition Reports. This rule prescribed the requirements for submitting incident, annual, and safety-related condition reports, which were further described in 4 CSR 240-40.020.

PURPOSE: This rule is being rescinded in its entirety and consolidated into 4 CSR 240-40.020 in order to simplify and improve rules by streamlining and eliminating duplicative requirements.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to

Commission Case No. GX-2018-0279. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for August 20, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.295 Submission Requirements Regarding Gas Utility Written Procedures for Conversion of Service and Upgrading. This rule prescribed the requirements for submitting written procedures for conversion of service and upgrading of pipelines, which were further described in 4 CSR 240-40.030.

PURPOSE: This rule is being rescinded in its entirety and consolidated into 4 CSR 240-40.030 in order to simplify and improve rules by streamlining and eliminating duplicative requirements.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. GX-2018-0279. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for August 20, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.310 Filing Requirements for Sewer Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets. Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.310.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.315 Filing Requirements for Sewer Utility Applications for Authority to Merge or Consolidate. Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.315.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.320 Filing Requirements for Sewer Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness. Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.320.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be

considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.325 Filing Requirements for Sewer Utility Applications for Authority to Acquire the Stock of a Public Utility. Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.325.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.335 Annual Report Submission Requirements for Sewer Utilities. Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by sewer utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.335.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.405 Filing Requirements for Steam Heating Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets. Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining

to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.405.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.410 Filing Requirements for Steam Heating Utility Applications for Authority to Merge or Consolidate. Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.410.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.415 Filing Requirements for Steam Heating Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness. Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.415.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by

the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.420 Filing Requirements for Steam Heating Utility Applications for Authority to Acquire the Stock of a Public Utility. Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.420.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.435 Annual Report Submission Requirements for Steam Heating Utilities. Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission, and section 393.290 provides for the commission's jurisdiction

over steam heating utilities. This rule establishes the standards for the submission of annual reports by steam heating utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.435.

AUTHORITY: sections 386.250, 393.140, and 393.290, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.605 Filing Requirements for Water Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets. Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.605.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.610 Filing Requirements for Water Utility Applications for Authority to Merge or Consolidate. Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.610.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit

additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.615 Filing Requirements for Water Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness. Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.615.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.620 Filing Requirements for Water Utility Applications for Authority to Acquire the Stock of a Public Utility. Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.620.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

4 CSR 240-3.640 Annual Report Submission Requirements for Water Utilities. Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by water utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

PURPOSE: This rule is being rescinded in its entirety and a new rule will be promulgated with streamlined requirements previously contained in 4 CSR 240-3.640.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004. Rescinded: Filed June 14, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.*

SPECIAL NEEDS: *Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

PROPOSED RULE

4 CSR 240-10.105 Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Sell, Assign, Lease, or Transfer Assets

PURPOSE: *Applications to the commission for the authority to sell, assign, lease, or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).*

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to sell, assign, lease, or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights, or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest;

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments showing the results of the acquisitions of the property; and

(F) A statement of the impact, if any, the sale, assignment, lease, or transfer of assets will have on the tax revenues of the political subdivisions in which any structures, facilities, or equipment of the companies involved in that sale are located.

(2) If the purchaser is not subject to the jurisdiction of the commis-

sion, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: *section 386.250, RSMo 2016. Original rule filed June 14, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.*

SPECIAL NEEDS: *Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

PROPOSED RULE

4 CSR 240-10.115 Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Merge or Consolidate

PURPOSE: *Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).*

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

(F) A statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities, or equipment of the companies involved are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2016. Original rule filed June 14, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

PROPOSED RULE

4 CSR 240-10.125 Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Issue Stock, Bonds, Notes, and Other Evidences of Indebtedness

PURPOSE: Applications to the commission for the authority to issue stock, bonds, notes, or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to issue stock, bonds, notes, and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and

2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five- (5-) year capitalization expenditure schedule as required by section 393.200, RSMo.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2016. Original rule filed June 14, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

PROPOSED RULE

4 CSR 240-10.135 Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Acquire the Stock of a Public Utility

PURPOSE: Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of the applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2016. Original rule filed June 14, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

PROPOSED RULE

4 CSR 240-10.145 Annual Report Submission Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utilities

PURPOSE: Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by

electric, gas, water, sewer, and steam heating utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

(1) All electric, gas, water, sewer, and steam heating utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Annual reports shall be submitted either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in looseleaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If a utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number, and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading, will make a

recommendation to the commission advising whether the request should be granted.

(6) A utility subject to this rule that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by—

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A utility subject to this rule that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by—

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240-2, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A utility subject to this rule that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

AUTHORITY: sections 386.250 and 393.140, RSMo 2016. Original rule filed June 14, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-40.020 Incident, Annual, and Safety-Related Condition Reporting Requirements. The commission is amending sections (2), (3), (7), (11), (12), and (13).

PURPOSE: This amendment proposes to amend the rule to address the 2016 amendment of 49 CFR part 191, to correct errors and inadvertent omissions from previous amendments, and to remove unnecessary verbiage.

(2) Definitions. (191.3) As used in this rule and in the PHMSA Forms referenced in this rule—

(B) Commission means the Public Service Commission. Designated commission personnel means the Pipeline Safety Program Manager at the address contained in subsection (5)(E) for [required] correspondence and means the list of staff personnel supplied to operators for [required] telephonic notices;

(C) **Confirmed discovery means when it can be reasonably determined, based on information available to the operator at the time a reportable event has occurred, even if only based on a preliminary evaluation;**

[(C)](D) Federal incident means any of the following events:

1. An event that involves a release of gas from a pipeline and that results in one (1) or more of the following consequences:

A. A death or personal injury necessitating inpatient hospitalization; or

B. Estimated property damage of fifty thousand dollars (\$50,000) or more, including loss to the operator and others, or both, but excluding the cost of gas lost; or

C. Unintentional estimated gas loss of three (3) million cubic feet or more; or

2. An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraph [(2)(C)1.] (2)(D)1.;

[(D)](E) Gas means natural gas, flammable gas, manufactured gas or gas which is toxic or corrosive;

[(E)](F) LNG facility means a pipeline facility that is used for liquefying natural gas or synthetic gas or transferring, storing, or vaporizing liquefied natural gas;

(G) LNG plant means an LNG facility or system of LNG facilities functioning as a unit;

[(F)](H) Master meter system means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, for instance, by rents;

[(G)](I) Municipality means a city, village, or town;

[(H)](J) Operator means a person who engages in the transportation of gas;

[(I)](K) Person means any individual, firm, joint venture, partnership, corporation, association, county, state, municipality, political subdivision, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative of them;

[(J)](L) Pipeline or pipeline system means all parts of those physical facilities through which gas moves in transportation including, but not limited to, pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies;

[(K)](M) PHMSA means the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation; *[and]*

[(L)](N) Transportation of gas means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce*[/]; and*

(O) Underground natural gas storage facility means a facility that stores natural gas in an underground facility incident to natural gas transportation, including—

1. A depleted hydrocarbon reservoir;
2. An aquifer reservoir; or
3. A solution-mined salt cavern reservoir, including associated material and equipment used for injection, withdrawal, monitoring, or observation wells, and wellhead equipment, piping, rights-of-way, property, buildings, compressor units, separators, metering equipment, and regulator equipment.

(3) Immediate Notice of Federal Incidents. (191.5)

(A) At the earliest practicable moment following discovery, **but no later than one (1) hour after confirmed discovery**, each operator shall give notice, in accordance with subsection (3)(B), of each federal incident as defined in section (2) (191.3).

(C) **Within forty-eight (48) hours after the confirmed discovery of an incident, to the extent practicable, an operator must revise or confirm its initial telephonic notice required in subsection (3)(B) with an estimate of the amount of gas released, an estimate of the number of fatalities and injuries, and all other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages. If there are no changes or revisions to the initial report, the operator must confirm the estimates in its initial report.**

(7) Distribution System—Annual Report and Mechanical Fitting Failure Reports.

(A) Annual Report. (191.11)

1. Except as provided in paragraph (7)(A)3., each operator of a distribution pipeline system must submit an annual report for that system on U.S. Department of Transportation Form PHMSA F 7100.1-1. This report must be submitted each year, not later than March 15, for the preceding calendar year. See the report submission requirements in subsection (5)(A).

2. The annual report form (revised *[May 2015] January 2017*) is incorporated by reference and is published by U.S. Department of Transportation Office of Pipeline Safety, PHP-10, 1200 New Jersey Avenue SE, Washington DC 20590-0001. The form is available at www.phmsa.dot.gov/pipeline/library/forms or upon request from the pipeline safety program manager at the address given in subsection (5)(E). The form does not include any amendments or additions to the *[May 2015] January 2017* version.

3. The annual report requirement in this subsection does not apply to a master meter system or to a petroleum gas system which serves fewer than one hundred (100) customers from a single source.

(11) National Registry of Pipeline and LNG Operators (191.22)

(A) OPID Request.

1. Effective January 1, 2012, each operator of a gas pipeline, *[or]* gas pipeline facility, **underground natural gas storage facility, LNG plant or LNG facility** must obtain from PHMSA an Operator Identification Number (OPID). An OPID is assigned to an operator for the pipeline or pipeline system for which the operator has primary responsibility. To obtain an OPID, an operator must complete an OPID Assignment Request (U.S. Department of Transportation Form PHMSA F 1000.1) through the National Registry of Pipeline and LNG Operators at <http://portal.phmsa.dot.gov/pipeline> unless an alternative reporting method is authorized in accordance with subsection (5)(D). A copy of each submission to PHMSA must also be submitted concurrently to designated commission personnel—see addresses in subsection (5)(E).

2. The OPID Assignment Request form (May 2015) is incorporated by reference and is published by U.S. Department of Transportation Office of Pipeline Safety, PHP-10, 1200 New Jersey Avenue SE, Washington DC 20590-0001. The form is available at www.phmsa.dot.gov/pipeline/library/forms or upon request from the pipeline safety program manager at the address given in subsection (5)(E). The form does not include any amendments or additions to the May 2015 version.

(C) Changes. Each operator of a gas pipeline, *[or]* gas pipeline facility, **underground natural gas storage facility, LNG plant or LNG facility** must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at <http://portal.phmsa.dot.gov/pipeline> of certain events. A copy of each online notification must also be submitted concurrently to designated commission personnel—see addresses in subsection (5)(E).

1. An operator must notify PHMSA of any of the following events not later than sixty (60) days before the event occurs:

A. Construction or any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs ten (10) million dollars or more. If sixty- (60-) day notice is not feasible because of an emergency, an operator must notify PHMSA as soon as practicable; *[or]*

B. Construction of ten (10) or more miles of a new or replacement pipeline*[/];*

C. Construction of a new LNG plant or LNG facility;

D. Construction of a new underground natural gas storage facility or the abandonment, drilling, or well workover (including replacement of wellhead, tubing, or a new casing) of an injection, withdrawal, monitoring, or observation well for an underground natural gas storage facility;

E. Reversal of product flow direction when the reversal is expected to last more than thirty (30) days. This notification is not required for pipeline systems already designed for bi-directional flow; or

F. A pipeline converted for service under 4 CSR 240-40.030(1)(H) (192.14), or a change in commodity as reported on the annual report as required by section (10) (191.17).

2. An operator must notify PHMSA of any of the following events not later than sixty (60) days after the event occurs:

A. A change in the primary entity responsible (i.e., with an assigned OPID) for managing or administering a safety program required by this rule covering pipeline facilities operated under multiple OPIDs;

B. A change in the name of the operator;

C. A change in the entity (e.g., company, municipality) responsible for an existing pipeline, pipeline segment, *[or]* pipeline facility, **underground natural gas storage facility, or LNG facility;** *[or]*

D. The acquisition or divestiture of fifty (50) or more miles of a pipeline or pipeline system subject to 4 CSR 240-40.030*[/];*

E. **The acquisition or divestiture of an existing LNG plant or LNG facility subject to 49 CFR Part 193; or**

F. **The acquisition or divestiture of an existing underground natural gas storage facility subject to 49 CFR part 192.**

(12) Reporting Safety-Related Conditions. (191.23)

(A) Except as provided in subsection (12)(B), each operator must report in accordance with section (13) (191.25) the existence of any of the following safety-related conditions involving facilities in service:

1. In the case of *[the]* a pipeline (**other than an LNG facility**) that operates at a hoop stress of twenty percent (20%) or more of its specified minimum yield strength, general corrosion that has reduced the wall thickness to less than that required for the maximum allowable operating pressure and localized corrosion pitting to a degree where leakage might result;

2. Unintended movement or abnormal loading by environmental causes, for instance, an earthquake, landslide, or flood, that impairs

the serviceability of a pipeline;

3. Any material defect or physical damage that impairs the serviceability of a pipeline that operates at a hoop stress of twenty percent (20%) or more of its specified minimum yield strength;

4. Any malfunction or operating error that causes the pressure of a pipeline to rise above its maximum allowable operating pressure plus the buildup allowed for operation of pressure limiting or control devices;

5. A leak in a pipeline that constitutes an emergency; and

6. Any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a twenty percent (20%) or more reduction in operating pressure or shutdown of operation of a pipeline.

(13) Filing Safety-Related Condition Reports. (191.25)

(A) Each report of a safety-related condition under subsection (12)(A) must be filed (received by the Office of Pipeline Safety at PHMSA and designated commission personnel) within five (5) working days (not including Saturday, Sunday, or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than ten (10) working days after the day a representative of the operator discovers the possibility of a condition. Separate conditions may be described in a single report if they are closely related. See the report submission requirements in subsection (5)(C). Reports may be transmitted by electronic mail to [*InformationResourceManager@dot.gov*] **InformationResourcesManager@dot.gov** and *PipelineSafetyProgramManager@psc.mo.gov*. To file a report by telefacsimile (fax), dial (202) 366-7128 for the Office of Pipeline Safety and (573) 522-1946 for designated commission personnel.

AUTHORITY: sections 386.250, 386.310, and 393.140, RSMo 2016. Original rule filed Feb. 5, 1970, effective Feb. 26, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed June 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. GX-2018-0279. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for August 20, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.*

SPECIAL NEEDS: *Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-40.030 Safety Standards—Transportation of Gas by Pipeline. The commission is amending sections (1), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14), (15), and (17).

PURPOSE: This amendment modifies the rule to address amendments of 49 CFR part 192 promulgated between January 2016 and September 2017 and makes clarification and editorial changes.

(1) General.

(B) Definitions. (192.3) As used in this rule—

1. Abandoned means permanently removed from service;
2. Active corrosion means continuing corrosion that, unless controlled, could result in a condition that is detrimental to public safety;
3. Administrator means the Administrator of the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation to whom authority in the matters of pipeline safety have been delegated by the Secretary of the United States Department of Transportation, or his or her delegate;
4. Alarm means an audible or visible means of indicating to the controller that equipment or processes are outside operator-defined, safety-related parameters;
5. Building means any structure that is regularly or periodically occupied by people;
6. Commission means the Missouri Public Service Commission;
7. Control room means an operations center staffed by personnel charged with the responsibility for remotely monitoring and controlling a pipeline facility;
8. Controller means a qualified individual who remotely monitors and controls the safety-related operations of a pipeline facility via a supervisory control and data acquisition (SCADA) system from a control room, and who has operational authority and accountability for the remote operational functions of the pipeline facility;
9. Customer meter means the meter that measures the transfer of gas from an operator to a consumer;
10. Designated commission personnel means the pipeline safety program manager at the address contained in 4 CSR 240-40.020(5)(E) for [*required*] correspondence;
11. Distribution line means a pipeline other than a gathering or transmission line;
12. Electrical survey means a series of closely spaced pipe-to-soil readings over pipelines which are subsequently analyzed to identify locations where a corrosive current is leaving the pipeline, except that other indirect examination tools/methods can be used for an electrical survey included in the federal regulations in 49 CFR part 192, subpart O and appendix E (incorporated by reference in section (16));
13. Feeder line means a distribution line that has a maximum allowable operating pressure (MAOP) greater than 100 psi (689 kPa) gauge that produces hoop stresses less than twenty percent (20%) of specified minimum yield strength (SMYS);
14. Follow-up inspection means an inspection performed after a repair procedure has been completed in order to determine the effectiveness of the repair and to ensure that all hazardous leaks in the area are corrected;
15. Fuel line means the customer-owned gas piping downstream from the outlet of the customer meter or operator-owned pipeline, whichever is farther downstream;
16. Gas means natural gas, flammable gas, manufactured gas, or gas which is toxic or corrosive;
17. Gathering line means a pipeline that transports gas from a

current production facility to a transmission line or main;

18. High-pressure distribution system means a distribution system in which the gas pressure in the main is higher than an equivalent to fourteen inches (14") water column;

19. Hoop stress means the stress in a pipe wall acting circumferentially in a plane perpendicular to the longitudinal axis of the pipe produced by the pressure in the pipe;

20. Listed specification means a specification listed in subsection I. of Appendix B, which is included herein (at the end of this rule);

21. Low-pressure distribution system means a distribution system in which the gas pressure in the main is less than or equal to an equivalent of fourteen inches (14") water column;

22. Main means a distribution line that serves as a common source of supply for more than one (1) service line;

23. Maximum actual operating pressure means the maximum pressure that occurs during normal operations over a period of one (1) year;

24. Maximum allowable operating pressure (MAOP) means the maximum pressure at which a pipeline or segment of a pipeline may be operated under this rule;

25. Municipality means a city, village, or town;

26. Operator means a person who engages in the transportation of gas;

27. Person means any individual, firm, joint venture, partnership, corporation, association, county, state, municipality, political subdivision, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative of them;

28. Petroleum gas means propane, propylene, butane (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 208 psi (1434 kPa) gauge at 100°F (38°C);

29. PHMSA means the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation;

30. Pipe means any pipe or tubing used in the transportation of gas, including pipe-type holders;

31. Pipeline means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies;

32. Pipeline environment includes soil resistivity (high or low), soil moisture (wet or dry), soil contaminants that may promote corrosive activity, and other known conditions that could affect the probability of active corrosion;

33. Pipeline facility means new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation;

34. Reading means the highest sustained reading when testing in a bar hole or opening without induced ventilation;

35. Service line means a distribution line that transports gas from a common source of supply to an individual customer, to two (2) adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter;

36. Service regulator means the device on a service line that controls the pressure of gas delivered from a higher pressure to the pressure provided to the customer. A service regulator may serve one (1) customer or multiple customers through a meter header or manifold;

37. SMYS means specified minimum yield strength is—

A. For steel pipe manufactured in accordance with a listed

specification, the yield strength specified as a minimum in that specification; or

B. For steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with paragraph (3)(D)2. (192.107[b]);

38. Supervisory control and data acquisition (SCADA) system means a computer-based system or systems used by a controller in a control room that collects and displays information about a pipeline facility and may have the ability to send commands back to the pipeline facility;

39. Sustained reading means the reading taken on a combustible gas indicator unit after adequately venting the test hole or opening;

40. Transmission line means a pipeline, other than a gathering line, that—

A. Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center (A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.);

B. Operates at a hoop stress of twenty percent (20%) or more of SMYS; or

C. Transports gas within a storage field;

41. Transportation of gas means the gathering, transmission, or distribution of gas by pipeline or the storage of gas in Missouri;

42. Tunnel means a subsurface passageway large enough for a man to enter;

43. Vault or manhole means a subsurface structure that a man can enter;

44. Welder means a person who performs manual or semi-automatic welding;

45. Welding operator means a person who operates machine or automatic welding equipment; and

46. Yard line means an underground fuel line that transports gas from the service line to the customer's building. If multiple buildings are being served, building *[shall]* means the building nearest to the connection to the service line. For purposes of this definition, if aboveground fuel line piping at the meter location is located within five feet (5') of a building being served by that meter, it *[shall]* **will** be considered to the customer's building and no yard line exists. At meter locations where aboveground fuel line piping is located greater than five feet (5') from the building(s) being served, the underground fuel line from the meter to the entrance into the nearest building served by that meter *[shall]* **will** be considered the yard line and any other lines are not considered yard lines.

(D) Incorporation By Reference of the Federal Regulation at 49 CFR 192.7. (192.7)

1. As set forth in the *Code of Federal Regulations* (CFR) dated October 1, *[2015]* 2017, the federal regulation at 49 CFR 192.7 is incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR 192.7.

2. The *Code of Federal Regulations* and the *Federal Register* are published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, *[2015]* 2017 version of 49 CFR part 192 is available at www.gpo.gov/fdsys/search/showcitation.action.

3. The regulation at 49 CFR 192.7 provides a listing of the documents that are incorporated by reference partly or wholly in 49 CFR part 192, which is the federal counterpart and foundation for this rule. All incorporated materials are available for inspection from several sources, including the following sources:

A. The Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. For more information, contact 202-366-4046 or go to the PHMSA website at www.phmsa.dot.gov/pipeline/regs;

B. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to the NARA website at www.archives.gov/federal-register/cfr/ibr-locations.html or call 202-741-6030 or 866-272-6272;

and

C. Copies of standards incorporated by reference can also be purchased or are otherwise made available from the respective standards-developing organizations listed in 49 CFR 192.7.

4. Federal amendment 192-94 (published in *Federal Register* on June 14, 2004, page 69 FR 32886) moved the listing of incorporated documents to 49 CFR 192.7 from 49 CFR part 192 – Appendix A, which is now “Reserved”. This listing of documents was in Appendix A to this rule prior to the 2008 amendment of this rule. As of the 2008 amendment, Appendix A to this rule is also “Reserved” and included herein.

(E) Gathering Lines. (192.8 and 192.9)

1. As set forth in the *Code of Federal Regulations* (CFR) dated October 1, [2015] 2017, the federal regulations at 49 CFR 192.8 and 192.9 are incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR 192.8 and 192.9.

2. The *Code of Federal Regulations* is published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, [2015] 2017 version of 49 CFR part 192 is available at www.gpo.gov/fdsys/search/showcitation.action.

3. The regulations at 49 CFR 192.8 and 192.9 provide the requirements for gathering lines. The requirements for offshore lines are not applicable to Missouri.

(F) Petroleum Gas Systems. (192.11)

1. Each plant that supplies petroleum gas by pipeline to a natural gas distribution system must meet the requirements of this rule and of NFPA 58 and NFPA 59 (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)).

2. Each pipeline system subject to this rule that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this rule and of NFPA 58 and NFPA 59 (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)).

3. In the event of a conflict between this rule and NFPA 58 and NFPA 59 (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)), NFPA 58 and NFPA 59 prevail.

(H) Conversion to Service Subject to this Rule. (192.14)

1. Except as provided in paragraph [(1)(H)3.] (1)(H)4., a steel pipeline previously used in service not subject to this rule qualifies for use under this rule if the operator prepares and follows a written procedure to carry out the following requirements:

A. The design, construction, operation, and maintenance history of the pipeline must be reviewed and, where sufficient historical records are not available, appropriate tests must be performed to determine if the pipeline is in a satisfactory condition for safe operation;

B. The pipeline right-of-way, all aboveground segments of the pipeline, and appropriately selected underground segments must be visually inspected for physical defects and operating conditions which reasonably could be expected to impair the strength or tightness of the pipeline;

C. All known unsafe defects and conditions must be corrected in accordance with this rule; and

D. The pipeline must be tested in accordance with section (10) to substantiate the maximum allowable operating pressure permitted by section (12).

2. Each operator must keep for the life of the pipeline a record of investigations, tests, repairs, replacements, and alterations made under the requirements of paragraph (1)(H)1.

3. An operator converting a pipeline from service not previously covered by this rule must notify PHMSA and designated commission personnel sixty (60) days before the conversion occurs as required by 4 CSR 240-40.020(11).

[3.4. This paragraph lists situations where steel pipe may not be converted to service subject to this rule.

A. Steel yard lines that are not cathodically protected must be replaced under subsection (15)(C).

B. Buried steel fuel lines that are not cathodically protected may not be converted to a pipeline as defined in subsection (1)(B), such as a service line or main.

C. Buried steel pipes that are not cathodically protected may not be converted to a service line.

D. Buried steel pipes that are not cathodically protected may not be converted to a main in Class 3 and Class 4 locations.

(J) Filing of Required Plans, Procedures, and Programs.

1. Each operator shall submit to designated commission personnel all plans, procedures, and programs required by this rule (to include welding and joining procedures, construction standards, control room management procedures, corrosion control procedures, damage prevention program, distribution integrity management plan, emergency procedures, public education program, operator qualification program, replacement programs, transmission integrity management program, and procedural manual for operations, maintenance, and emergencies). In addition, each change must be submitted to designated commission personnel within twenty (20) days after the change is made.

2. All operators under the pipeline safety jurisdiction of the Missouri Public Service Commission must establish and submit welding procedures, joining procedures, and construction specifications and standards to designated commission personnel before construction activities begin. All other plans, procedures and programs required by rules 4 CSR 240-40.020, 4 CSR 240-40.030, and 4 CSR 240-40.080 must be established and submitted to designated commission personnel before the system is put into operation.

3. A written plan for drug and alcohol testing in accordance with 4 CSR 240-40.080 must be submitted to designated commission personnel.

(L) Customer Notification, [Required by] Paragraph (12)(S)2. When providing gas service to a new customer or a customer relocated from a different operating district, [the operator must provide the customer notification required by] see paragraph (12)(S)2. **regarding applicable customer notification.**

(3) Pipe Design.

(L) Additional Design Requirements for Steel Pipe Using Alternative Maximum Allowable Operating Pressure. (192.112) The federal regulations at 49 CFR 192.112 are not adopted in this rule.

(4) Design of Pipeline Components.

(S) Pipe-Type and Bottle-Type Holders. (192.175)

1. Each pipe-type and bottle-type holder must be designed so as to prevent the accumulation of liquids in the holder, in connecting pipe or in auxiliary equipment that might cause corrosion or interfere with the safe operation of the holder.

2. Each pipe-type or bottle-type holder must have a minimum clearance from other holders in accordance with the following formula:

$$C = (3D \times P \times F) / 1000 \text{ (in inches)}$$
$$(C = (3D \times P \times F) // 2298 / 6,895) \text{ (in millimeters)}$$

where

C = Minimum clearance between pipe containers or bottles in inches (millimeters);

D = Outside diameter of pipe containers or bottles in inches (millimeters);

P = Maximum allowable operating pressure, psi (kPa) gauge; and

F = Design factor as set forth in subsection (3)(F) (192.111).

(5) Welding of Steel in Pipelines.

(B) General. [(192.223)]

1. Welding [must] is only to be performed in accordance with established written welding procedures that have been qualified under subsection (5)(C) (192.225) to produce sound, ductile welds.

2. Welding [must] is only to be performed by welders who are

qualified under subsections (5)(D) and (E) (192.227 and 192.229) for the welding procedure to be used.

(C) Welding Procedures. (192.225)

1. Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, [or] Appendix A, or Appendix B of API Standard 1104 (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)) or section IX of the *ASME Boiler and Pressure Vessel Code* (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)) to produce welds meeting the requirements of section (5) of this rule. The quality of the test welds used to qualify welding procedures must be determined by destructive testing in accordance with the referenced welding standard(s).

2. Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

(D) Qualification of Welders and Welding Operators. (192.227)

1. Except as provided in paragraph (5)(D)2., each welder or welding operator must be qualified in accordance with section 6, section 12, [or] Appendix A, or Appendix B of API Standard 1104 (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)) or section IX of the *ASME Boiler and Pressure Vessel Code* (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)). However, a welder or welding operator qualified under an earlier edition of a standard than listed in 49 CFR 192.7 (see subsection (1)(D)) may weld but may not requalify under that earlier edition.

2. A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than twenty percent (20%) of SMYS by performing an acceptable test weld, for the process to be used, under the test set forth in subsection I. of Appendix C, which is included herein (at the end of this rule). Each welder who is to make a welded service line connection to a main must first perform an acceptable test weld under subsection II. of Appendix C as a requirement of the qualifying test.

(6) Joining of Materials Other Than by Welding.

(G) Plastic Pipe—Qualifying Joining Procedures. (192.283)

1. Heat fusion, solvent cement, and adhesive joints. Before any written procedure established under paragraph (6)(B)2. is used for making plastic pipe joints by a heat fusion, solvent cement, or adhesive method, the procedure must be qualified by subjecting specimen joints made according to the procedure to the following tests:

A. The burst test requirements of—

(I) In the case of thermoplastic pipe, paragraph 6.6 (Sustained Pressure Test) or paragraph 6.7 (Minimum Hydrostatic Burst Pressure) [or paragraph 8.9 (Sustained Static Pressure Test)] of ASTM D2513-99 (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)) for plastic materials other than polyethylene or ASTM D2513-09A (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)) for polyethylene plastic materials;

(II) (Reserved); or

(III) In the case of electrofusion fittings for polyethylene pipe and tubing, paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), paragraph 9.2 (Sustained Pressure Test), paragraph 9.3 (Tensile Strength Test), or paragraph 9.4 (Joint Integrity Tests) of ASTM F1055 (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D));

B. For procedures intended for lateral pipe connections, subject a specimen joint made from pipe sections joined at right angles according to the procedure to a force on the lateral pipe until failure occurs in the specimen. If failure initiates outside the joint area, the procedure qualifies for use; and

C. For procedures intended for nonlateral pipe connections, follow the tensile test requirements of ASTM D638 (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D)), except that the test may be conducted at ambient temperature and humidity.

If the specimen elongates no less than twenty-five percent (25%) or failure initiates outside the joint area, the procedure qualifies for use.

2. Mechanical joints. Before any written procedure established under paragraph (6)(B)2. is used for making mechanical plastic pipe joints that are designed to withstand tensile forces, the procedure must be qualified by subjecting five (5) specimen joints made according to the procedure to the following tensile test:

A. Use an apparatus for the test as specified in ASTM D638 (except for conditioning), (incorporated by reference in 49 CFR 192.7 and adopted in subsection (1)(D));

B. The specimen must be of such length that the distance between the grips of the apparatus and the end of the stiffener does not affect the joint strength;

C. The speed of testing is 0.20 inches (5.0 mm) per minute, plus or minus twenty-five percent (25%);

D. Pipe specimens less than four inches (4") (102 mm) in diameter are qualified if the pipe yields to an elongation of no less than twenty-five percent (25%) or failure initiates outside the joint area;

E. Pipe specimens four inches (4") (102 mm) and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 100°F (38°C) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five (5) test results or the manufacturer's rating, whichever is lower, must be used in the design calculations for stress;

F. Each specimen that fails at the grips must be retested using new pipe; and

G. Results obtained pertain only to the specific outside diameter and material of the pipe tested, except that testing of a heavier wall pipe may be used to qualify pipe of the same material but with a lesser wall thickness.

3. A copy of each written procedure being used for joining plastic pipe must be available to the persons making and inspecting joints.

4. Pipe or fittings manufactured before July 1, 1980 may be used in accordance with procedures that the manufacturer certifies will produce a joint as strong as the pipe.

(7) General Construction Requirements for Transmission Lines and Mains.

(O) Additional Construction Requirements for Steel Pipe Using Alternative Maximum Allowable Operating Pressure. (192.328). The federal regulations at 49 CFR 192.328 are not adopted in this rule.

(8) Customer Meters, Service Regulators, and Service Lines.

(O) Service Lines—Excess Flow Valve Performance Standards. (192.381)

1. Excess flow valves to be used on [single residence] service lines that operate continuously throughout the year at a pressure not less than ten (10) psi (69 kPa) must be manufactured and tested by the manufacturer according to an industry specification, or the manufacturer's written specification, to ensure that each valve will—

A. Function properly up to the maximum operating pressure at which the valve is rated;

B. Function properly at all temperatures reasonably expected in the operating environment of the service line;

C. At ten (10) psi (69 kPa) gauge:

(I) Close at, or not more than fifty percent (50%) above, the rated closure flow rate specified by the manufacturer; and

(II) Upon closure, reduce gas flow—

(a) For an excess flow valve designed to allow pressure to equalize across the valve, to no more than five percent (5%) of the manufacturer's specified closure flow rate, up to a maximum of twenty (20) cubic feet per hour (0.57 cubic meters per hour); or

(b) For an excess flow valve designed to prevent equalization of pressure across the valve, to no more than 0.4 cubic feet

per hour (0.01 cubic meters per hour); and

D. Not close when the pressure is less than the manufacturer's minimum specified operating pressure and the flow rate is below the manufacturer's minimum specified closure flow rate.

2. An excess flow valve must meet the applicable requirements of sections (2) and (4).

3. An operator must mark or otherwise identify the presence of an excess flow valve in the service line.

4. An operator shall locate an excess flow valve as near as practical to the fitting connecting the service line to its source of gas supply.

5. An operator should not install an excess flow valve on a service line where the operator has prior experience with contaminants in the gas stream, where these contaminants could be expected to cause the excess flow valve to malfunction or where the excess flow valve would interfere with necessary operation and maintenance activities on the service line, such as blowing liquids from the service line.

(P) Excess Flow Valve Installation. (192.383)

1. Definitions for subsection (8)(P).

A. **Branched service line means a gas service line that begins at the existing service line or is installed concurrently with the primary service line but serves a separate residence.**

[A./B. Replaced service line means a gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

[B./C. Service line serving single-family residence means a gas service line that begins at the fitting that connects the service line to the main and serves only one (1) single-family residence.

2. Installation required. An excess flow valve (EFV) installation must comply with the performance standards in subsection (8)(O). *[The operator must install an EFV on any new or replaced service line serving a single-family residence after February 12, 2010, unless one (1) or more of the following conditions is present] After April 14, 2017, each operator must install an EFV on any new or replaced service line serving the following types of services before the line is activated:*

A. A single service line to one single family residence;

B. A branched service line to a single family residence installed concurrently with the primary single family residence service line (i.e., a single EFV may be installed to protect both service lines);

C. A branched service line to a single family residence installed off a previously installed single family residence service line that does not contain an EFV;

D. Multifamily residences with known customer loads not exceeding 1,000 SCFH per service, at time of service installation, based on installed meter capacity; and

E. A single, small commercial customer served by a single service line with a known customer load not exceeding 1,000 SCFH, at the time of meter installation, based on installed meter capacity.

3. Exceptions to excess flow valve installation requirement. An operator need not install an excess flow valve if one (1) or more of the following conditions are present:

A. The service line does not operate at a pressure of ten (10) psi gauge or greater throughout the year;

B. The operator has prior experience with contaminants in the gas stream that could interfere with the EFV's operation or cause loss of service to a residence;

C. An EFV could interfere with necessary operation or maintenance activities, such as blowing liquids from the line; or

D. An EFV meeting performance standards in subsection (8)(O) is not commercially available to the operator.

4. **Customer's right to request an EFV. Existing service line customers who desire an EFV on service lines not exceeding 1,000 SCFH and who do not qualify for one (1) of the exceptions in paragraph (8)(P)3. may request an EFV to be installed on their**

service lines. If an eligible service line customer requests an EFV installation, an operator must install the EFV at a mutually agreeable date. The operator's rate-setter determines how and to whom the costs of the requested EFVs are distributed.

5. **Operator notification of customers concerning EFV installation. Operators must notify customers of their right to request an EFV in the following manner:**

A. Except as specified in (8)(P)3. and (8)(P)5.E., each operator must provide written or electronic notification to customers of their right to request the installation of an EFV. Electronic notification can include emails, website postings, and e-billing notices.

B. The notification must include an explanation for the service line customer of the potential safety benefits that may be derived from installing an EFV. The explanation must include information that an EFV is designed to shut off the flow of natural gas automatically if the service line breaks.

C. The notification must include a description of EFV installation and replacement costs. The notice must alert the customer that the costs for maintaining and replacing an EFV may later be incurred, and what those costs will be to the extent known.

D. The notification must indicate that if a service line customer requests installation of an EFV and the load does not exceed 1,000 SCFH and the conditions of paragraph (8)(P)3. are not present, the operator must install an EFV at a mutually agreeable date.

E. Operators of master-meter systems may continuously post a general notification in a prominent location frequented by customers.

6. **Operator evidence of customer notification. An operator must make a copy of the notice or notices currently in use available during inspections conducted by designated commission personnel.**

[3./7. Reporting. Except for operators of master meter systems, /E/each operator must report the EFV measures detailed in the annual report required by 4 CSR 240-40.020(7)(A).

(Q) Manual Service Line Shut-Off Valve Installation (192.385)

1. Definitions for subsection (8)(Q).

Manual service line shut-off valve means a curb valve or other manually operated valve located near the service line that is safely accessible to operator personnel or other personnel authorized by the operator to manually shut off gas flow to the service line, if needed.

2. Installation requirement. The operator must install either a manual service line shut-off valve or, if possible, based on sound engineering analysis and availability, an EFV for any new or replaced service line with installed meter capacity exceeding 1,000 SCFH.

3. Accessibility and maintenance. Manual service line shut-off valves for any new or replaced service line must be installed in such a way as to allow accessibility during emergencies. Manual service shut-off valves installed under this subsection are subject to regular scheduled maintenance, as documented by the operator and consistent with the valve manufacturer's specifications.

(9) Requirements for Corrosion Control.

(B) How Does this *[Subsection] Section* Apply to Converted Pipelines and Regulated Onshore Gathering Lines? (192.452)

1. Converted pipelines. Notwithstanding the date the pipeline was installed or any earlier deadlines for compliance, each pipeline which qualifies for use under this rule in accordance with subsection (1)(H) must have a cathodic protection system designed to protect the pipeline in its entirety in accordance with subsection (9)(H) within one (1) year after the pipeline is readied for service.

2. Regulated onshore gathering lines. For any regulated onshore gathering line to which 49 CFR 192.8 and 192.9 did not apply until

April 14, 2006, and for any gathering line that becomes a regulated onshore gathering line under subsection (1)(E) because of a change in class location or increase in dwelling density:

A. The requirements of this section specifically applicable to pipelines installed before August 1, 1971, apply to the gathering line regardless of the date the pipeline was actually installed; and

B. The requirements of this section specifically applicable to pipelines installed after July 31, 1971, apply only if the pipeline substantially meets those requirements.

(I) External Corrosion Control—Monitoring. (192.465)

1. Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding fifteen (15) months, to determine whether the cathodic protection meets the requirements of subsection (9)(H). (192.463) However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of one hundred feet (100') (thirty meters (30 m)), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least twenty percent (20%) of these protected structures, distributed over the entire system, must be surveyed each calendar year, with a different twenty percent (20%) checked each subsequent year, so that the entire system is tested in each five- (5-) year period. Each short section of metallic pipe less than one hundred feet (100') (thirty meters (30 m)) in length installed and cathodically protected in accordance with paragraph (9)(R)2. (192.483[b]), each segment of pipe cathodically protected in accordance with paragraph (9)(R)3. (192.483[c]) and each electrically isolated metallic fitting not meeting the requirements of paragraph (9)(D)5. (192.455[f]) must be monitored at a minimum rate of ten percent (10%) each calendar year, with a different ten percent (10%) checked each subsequent year, so that the entire system is tested every ten (10) years.

2. Each cathodic protection rectifier or other impressed current power source must be inspected six (6) times each calendar year but with intervals not exceeding two and one-half (2 1/2) months to ensure that it is operating.

3. Each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six (6) times each calendar year, but with intervals not exceeding two and one-half (2 1/2) months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding fifteen (15) months.

4. Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring *[required]* set forth in paragraphs (9)(I)1.–3. Corrective measures must be completed within six (6) months unless otherwise approved by designated commission personnel.

5. After the initial evaluation required by paragraphs (9)(D)2. and (9)(E)2., each operator must, not less than every three (3) years at intervals not exceeding thirty-nine (39) months, reevaluate its unprotected pipelines and cathodically protect them in accordance with section (9) in areas in which active corrosion is found, *except that unprotected steel service lines must be replaced as required by]. Unprotected steel service lines are subject to replacement pursuant to subsection (15)(C).* The operator must determine the areas of active corrosion by electrical survey. However, on distribution lines and where an electrical survey is impractical on transmission lines, areas of active corrosion may be determined by other means that include review and analysis of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, the pipeline environment, and by instrument leak detection surveys (see subsections (13)(D) and (13)(M)). When the operator conducts electrical surveys, the operator must demonstrate that the surveys effectively identify areas of active corrosion.

(12) Operations.

(B) General Provisions. (192.603)

1. No person may operate a segment of pipeline unless it is

operated in accordance with this section.

2. Each operator shall keep records necessary to administer the procedures established under subsection (12)(C). (192.605)

3. Each operator *[shall be]* is responsible for ensuring that all work completed **on its pipelines** by its consultants and contractors complies with this rule.

4. Designated commission personnel may require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety. In the event of a dispute between designated commission personnel and the operator with respect to the appropriateness of a required amendment, the operator may file with the commission a request for a hearing before the commission, or the designated commission personnel may request that a complaint be filed against the operator by the general counsel of the commission.

(C) Procedural Manual for Operations, Maintenance, and Emergencies. (192.605)

1. General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines that are not exempt under subparagraph (12)(C)3.E., the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding fifteen (15) months, but at least once each calendar year. *[The manual must be revised, as necessary, within one (1) year of the effective date of revisions to this rule.]* This manual must be prepared before initial operations of a pipeline system commence and appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

2. Maintenance and normal operations. The manual required by paragraph (12)(C)1. must include procedures for the following, if applicable, to provide safety during maintenance and normal operations:

A. Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this section and sections (13) and (14);

B. Controlling corrosion in accordance with the operations and maintenance requirements of section (9);

C. Making construction records, maps, and operating history available to appropriate operating personnel;

D. Gathering of data needed for reporting incidents under 4 CSR 240-40.020 in a timely and effective manner;

E. Starting up and shutting down any part of a pipeline in a manner designed to assure operation within the MAOP limits prescribed by this rule, plus the build-up allowed for operation of pressure limiting and control devices;

F. Maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service;

G. Starting, operating, and shutting down gas compressor units;

H. Periodically reviewing the work done by operator personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found;

I. Inspecting periodically to ensure that operating pressures are appropriate for the class location;

J. Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available, when needed at the excavation, emergency rescue equipment including a breathing apparatus and a rescue harness and line;

K. Systematically and routinely testing and inspecting pipe-type or bottle-type holders including:

(I) Provision for detecting external corrosion before the strength of the container has been impaired;

(II) Periodic sampling and testing of gas in storage to determine the dew point of vapors contained in the stored gas that, if condensed, might cause internal corrosion or interfere with the safe

operation of the storage plant; and

(III) Periodic inspection and testing of pressure limiting equipment to determine that it is in a safe operating condition and has adequate capacity;

L. Continuing observations during all routine activities including, but not limited to, meter reading and cathodic protection work, for the purpose of detecting potential leaks by observing vegetation and odors. Potential leak indications must be recorded and responded to in accordance with section (14);

M. Testing and inspecting of customer-owned gas piping and equipment in accordance with subsection (12)(S);

N. Responding promptly to a report of a gas odor inside or near a building, unless the operator's emergency procedures under subparagraph (12)(J)1.C. specifically apply to these reports; and

O. Implementing the applicable control room management procedures required by subsection (12)(T).

3. Abnormal operation. For transmission lines the manual required by paragraph (12)(C)1. must include procedures for the following to provide safety when operating design limits have been exceeded:

A. Responding to, investigating, and correcting the cause of—

(I) Unintended closure of valves or shutdowns;

(II) Increase or decrease in pressure or flow rate outside normal operating limits;

(III) Loss of communications;

(IV) Operation of any safety device; and

(V) Any other foreseeable malfunction of a component, deviation from normal operation, or personnel error which could cause a hazard to persons or property;

B. Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation;

C. Notifying responsible operator personnel when notice of an abnormal operation is received;

D. Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found; and

E. The requirements of this paragraph (12)(C)3. do not apply to natural gas distribution operations that are operating transmission lines in connection with their distribution system.

4. Safety-related conditions. The manual required by paragraph (12)(C)1. must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the commission's reporting requirements.

5. Surveillance, emergency response, and accident investigation. The procedures required by paragraph (12)(H)1. and subsections (12)(J) and (L) (192.613[a], 192.615 and 192.617) must be included in the manual required by paragraph (12)(C)1.

(D) Qualification of Pipeline Personnel.

1. Scope. (192.801)

A. This subsection prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility. This subsection applies to all individuals who perform covered tasks, regardless of whether they are employed by the operator, a contractor, a subcontractor, or any other entity performing covered tasks on behalf of the operator.

B. For the purpose of this subsection, a covered task is an activity, identified by the operator, that—

(I) Is performed on a pipeline facility;

(II) Is an operations, maintenance, or emergency-response task;

(III) Is performed as a requirement of this rule; and

(IV) Affects the operation or integrity of the pipeline.

2. Definitions. (192.803)

A. Abnormal operating condition means a condition identi-

fied by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

(I) Indicate a condition exceeding design limits;

(II) Result in a hazard(s) to persons, property, or the environment; or

(III) Require an emergency response.

B. Evaluation (or evaluate) means a process consisting of training and examination, established and documented by the operator, to determine an individual's ability to perform a covered task and to demonstrate that an individual possesses the knowledge and skills under paragraph (12)(D)4. After initial evaluation for paragraph (12)(D)4., subsequent evaluations for paragraph (12)(D)4. can consist of examination only. The examination portion of this process *[shall]* **may** be conducted by one (1) or more of the following:

(I) Written examination;

(II) Oral examination;

(III) Hands-on examination, which could involve observation supplemented by appropriate queries. Observations can be made during:

(a) Performance on the job;

(b) On the job training; or

(c) Simulations.

C. Qualified means that an individual has been evaluated and can:

(I) Perform assigned covered tasks; and

(II) Recognize and react to abnormal operating conditions.

3. Qualification program. (192.805) Each operator shall have and follow a written qualification program. The program shall include provisions to:

A. Identify covered tasks;

B. Provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities;

/B./C. Ensure through evaluation that individuals performing covered tasks are qualified and have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities;

/C./D. Allow individuals that are not qualified pursuant to this subsection to perform a covered task if directed and observed by an individual that is qualified;

/D./E. Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident meeting the Missouri reporting requirements in 4 CSR 240-40.020(4)(A);

/E./F. Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

/F./G. Communicate changes, including changes to rules and procedures, that affect covered tasks to individuals performing those covered tasks and their supervisors, and incorporate those changes in subsequent evaluations;

/G./H. Identify the interval for each covered task at which evaluation of the individual's qualifications is needed, with a maximum interval of thirty-nine (39) months;

/H./I. Evaluate an individual's possession of the knowledge and skills under paragraph (12)(D)4. at intervals not to exceed thirty-nine (39) months;

/I./J. Ensure that covered tasks are—

(I) Performed by qualified individuals; or

(II) Directed and observed by qualified individuals; and

/J./K. Submit each program change to designated commission personnel as required by subsection (1)(J).

4. Personnel to whom this subsection applies must possess the knowledge and skills necessary to—

A. Follow the requirements of this rule that relate to the covered tasks they perform;

B. Carry out the procedures in the procedural manual for

operations, maintenance, and emergencies established under subsection (12)(C) (192.605) that relate to the covered tasks they perform;

C. Utilize instruments and equipment that relate to the covered task they perform in accordance with manufacturer's instructions;

D. Know the characteristics and hazards of the gas transported, including flammability range, odorant characteristics, and corrosive properties;

E. Recognize potential ignition sources;

F. Recognize conditions that are likely to cause emergencies, including equipment or facility malfunctions or failure and gas leaks, predict potential consequences of these conditions, and take appropriate corrective action;

G. Take steps necessary to control any accidental release of gas and to minimize the potential for fire or explosion; and

H. Know the proper use of firefighting procedures and equipment, fire suits, and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition.

5. Each operator shall continue to meet the training and annual review requirements regarding the operator's emergency procedures in subparagraph (12)(J)2.B., in addition to the qualification program required in paragraph (12)(D)3.

6. Each operator shall provide instruction to the supervisors or designated persons who will determine when an evaluation is necessary under subparagraph (12)(D)3./E./F.

7. Each operator shall select appropriately knowledgeable individuals to provide training and to perform evaluations. Where hands-on examinations and observations are used, the evaluator should possess the required knowledge to ascertain an individual's ability to perform covered tasks and react to abnormal operating conditions that might occur while performing those tasks.

8. Record keeping. (192.807) Each operator shall maintain records that demonstrate compliance with this subsection.

A. Qualification records shall include:

(I) Identification of the qualified individual(s);

(II) Identification of the covered tasks the individual is qualified to perform;

(III) Date(s) of current qualification; and

(IV) Qualification method(s).

B. Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five (5) years.

9. General. (192.809)

A. *[Subsection (12)(D) for personnel qualification was promulgated in 1989, effective December 15, 1989. Operators were required to meet the training and testing requirements within eighteen (18) months following the effective date, or June 15, 1991. At that time, there were no federal requirements for personnel qualification.] Operators must have a written qualification program by April 27, 2001. The program must be available for review by designated commission personnel.*

B. *[Subpart N to 49 CFR 192 (Subpart N) was adopted with federal regulations for qualification of pipeline personnel, effective October 26, 1999. Subsection (12)(D) is being amended in 2000 to incorporate much of Subpart N, including all requirements in Subpart N that are more stringent than the original subsection (12)(D). However, subsection (12)(D) as amended is different from and more stringent than Subpart N, primarily because training and testing is still required and work performance history review is not permitted as an evaluation method. Operators should continue to comply with the original subsection (12)(D) until the following deadlines, which are from Subpart N.] Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.*

[(I) Operators must have a written qualification program by April 27, 2001. The program and any program changes must be submitted to designated commission personnel as required by subsection (1)(J).

[(II) Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.

[(III) After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation.]

C. After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation.

(I) Damage Prevention Program. (192.614)

1. Except for pipelines listed in paragraphs (12)(I)6. and 7., each operator of a buried pipeline shall carry out in accordance with this subsection a written program to prevent damage to that pipeline by excavation activities. For the purpose of this subsection, excavation activities include excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations. Particular attention should be given to excavation activities in close proximity to cast iron mains with remedial actions taken as required by subsection (13)(Z). (192.755).

2. An operator may perform any of the duties *[required by] specified in* paragraph (12)(I)3. through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this subsection. However, an operator must perform the duties of subparagraph (12)(I)3.D. through participation in the qualified one-call system for Missouri. An operator's pipeline system must be covered by the qualified one-call system for Missouri.

3. The damage prevention program required by paragraph (12)(I)1. must, at a minimum—

A. Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located. A listing of persons involved in excavation activities shall be maintained and updated at least once each calendar year with intervals not exceeding fifteen (15) months. If an operator chooses to participate in an excavator education program of a one-call notification center, as provided for in subparagraphs (12)(I)3.B. and C., then such updated listing shall be provided to the one-call notification center prior to December 1 of each calendar year. This list should at least include, but not be limited to, the following:

(I) Excavators, contractors, construction companies, engineering firms, etc.—Identification of these should at least include a search of the phone book yellow pages, checking with the area and/or state office of the Associated General Contractors and checking with the operating engineers local union hall(s);

(II) Telephone company;

(III) Electric utilities and co-ops;

(IV) Water and sewer utilities;

(V) City governments;

(VI) County governments;

(VII) Special road districts;

(VIII) Special water and sewer districts; and

(IX) Highway department district(s);

B. Provide for at least a semiannual general notification of the public in the vicinity of the pipeline. Provide for actual notification of the persons identified in subparagraph (12)(I)3.A., at least once each calendar year at intervals not exceeding fifteen (15) months by registered or certified mail, or notification through participation in an excavator education program of a one-call notification center meeting the requirements of subparagraph (12)(I)3.C. Mailings to excavators shall include a copy of the applicable sections of Chapter 319, RSMo, or a summary of the provisions of Chapter 319, RSMo, approved by designated commission personnel, concerning underground facility safety and damage prevention pertaining to excavators. The operator's public notifications and excavator notifications shall include information concerning the existence and purpose of the

operator's damage prevention program, as well as information on how to learn the location of underground pipelines before excavation activities are begun;

C. In order to provide for an operator's compliance with the excavator notification requirements of subparagraph (12)(I)3.B., a one-call system's excavator education program must—

(I) Maintain and update a comprehensive listing of excavators who use the one-call notification center and who are identified by the operators pursuant to the requirements of subparagraph (12)(I)3.A.;

(II) Provide for at least semiannual educational mailings to the excavators named on the comprehensive listing maintained pursuant to part (12)(I)3.C.(I), by first class mail; and

(III) Provide for inclusion of the following in at least one (1) of the semiannual mailings *[required by]* specified in part (12)(I)3.C.(II): Chapter 319, RSMo or a summary of the provisions of Chapter 319, RSMo, approved by designated commission personnel, concerning underground facility safety and damage prevention which pertain to excavators; an explanation of the types of temporary markings normally used to identify the approximate location of underground facilities; and a description of the availability and proper use of the one-call system's notification center;

D. Provide a means of receiving and recording notification of planned excavation activities;

E. Include maintenance of records for subparagraphs (12)(I)3.B.–D. as follows:

(I) Copies of the two (2) most recent annual notifications sent to excavators identified in subparagraph (12)(I)3.A., or the four (4) most recent semiannual notifications sent in accordance with subparagraph (12)(I)3.C., must be retained;

(II) Copies of notifications required in subparagraph (12)(I)3.D. shall be retained for at least two (2) years. At a minimum, these records should include the date and the time the request was received, the actions taken pursuant to the request, and the date the response actions were taken; and

(III) Copies of notification records required by Chapter 319, RSMo, to be maintained by the notification center shall be available to the operator for at least five (5) years;

F. If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;

G. Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins; and

H. Provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

(I) The inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

(II) In the case of blasting, any inspection must include leakage surveys.

4. Each notification identified in subparagraph (12)(I)3.D. should be evaluated to determine the need for and the extent of inspections. The following factors should be considered in determining the need for and extent of those inspections:

A. The type and duration of the excavation activity involved;

B. The proximity to the operator's facilities;

C. The type of excavating equipment involved;

D. The importance of the operator's facilities;

E. The type of area in which the excavation activity is being performed;

F. The potential for serious incident should damage occur;

G. The prior history of the excavator with the operator; and

H. The potential for damage occurring which may not be easily recognized by the excavator.

5. The operator should pay particular attention, during and after excavation activities, to the possibility of joint leaks and breaks due

to settlement when excavation activities occur near cast iron and threaded-coupled steel.

6. A damage prevention program under this subsection is not required for the following pipelines:

A. Pipelines to which access is physically controlled by the operator; and

B. Pipelines that are part of a petroleum gas system subject to subsection (1)(F) (192.11) or part of a distribution system operated by a person in connection with that person's leasing of real property or by a condominium or cooperative association.

7. Pipelines operated by persons other than municipalities (including operators of master meters) whose primary activity does not include the transportation of gas need not comply with the following:

A. The requirement of paragraph (12)(I)1. that the damage prevention program be written; and

B. The requirements of paragraphs (12)(I)3.A., (12)(I)3.B., and (12)(I)3.C.

(S) Providing Service to Customers.

1. At the time an operator physically turns on the flow of gas to a customer (see requirements in subsection (10)(J) for new fuel line installations)—

A. Each segment of fuel line must be tested for leakage to at least the delivery pressure; and

B. A visual inspection of the exposed, accessible customer gas piping, interior and exterior, and all connected equipment shall be conducted to determine that the requirements of any applicable industry codes, standards, or procedures adopted by the operator to assure safe service are met. This visual inspection need not be met for emergency outages or curtailments. In the event a large commercial or industrial customer denies an operator access to the customer's premises, the operator does not need to comply with the above requirement if the operator obtains a signed statement from the customer stating that the customer will be responsible for inspecting its exposed, accessible gas piping, and all connected equipment, to determine that the piping and equipment meets any applicable codes, standards, or procedures adopted by the operator to assure safe service. In the event the customer denies an operator access to its premises and refuses to sign a statement as described above, the operator may file with the commission an application for waiver of compliance with this provision.

2. When providing gas service to a new customer or a customer relocated from a different operating district, the operator must provide the customer with the following as soon as possible, but within seven (7) calendar days, unless the operator can demonstrate that the information would be the same:

A. Information on how to contact the operator in the event of an emergency or to report a gas odor;

B. Information on how and when to contact the operator when excavation work is to be performed; and

C. Information concerning the customer's responsibility for maintaining his/her gas piping and utilization equipment. In addition, the operator should determine if a customer notification is *[required by]* applicable per subsection (1)(K).

3. The operator shall discontinue service to any customer whose fuel lines or gas utilization equipment are determined to be unsafe. The operator, however, may continue providing service to the customer if the unsafe conditions are removed or effectively eliminated.

4. A record of the test and inspection performed in accordance with this subsection shall be maintained by the operator for a period of not less than two (2) years.

(T) Control Room Management. (192.631)

1. General.

A. This subsection applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this subsection, except as

follows. For each control room where an operator's activities are limited to either or both of distribution with less than two hundred fifty thousand (250,000) services or transmission without a compressor station, the operator must have and follow written procedures that implement only paragraphs (12)(T)4. (regarding fatigue), (12)(T)9. (regarding compliance validation), and (12)(T)10. (regarding compliance and deviations).

B. The procedures required by this subsection must be integrated, as appropriate, with operating and emergency procedures required by subsections (12)(C) and (12)(J). An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraph (12)(T)2.; subparagraphs (12)(T)3.E. and (12)(T)4.B. and C.; and paragraphs (12)(T)6. and (12)(T)7. must be implemented no later than October 1, 2011. The procedures required by subparagraphs (12)(T)3.A.-D. and (12)(T)4.A. and D.; and paragraph (12)(T)5. must be implemented no later than August 1, 2012. The training procedures required by paragraph (12)(T)8. must be implemented no later than August 1, 2012, except that any training required by another paragraph or subparagraph of this subsection must be implemented no later than the deadline for that paragraph or subparagraph.

2. Roles and responsibilities. Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, an operator must define each of the following:

A. A controller's authority and responsibility to make decisions and take actions during normal operations;

B. A controller's role when an abnormal operating condition is detected, even if the controller is not the first to detect the condition, including the controller's responsibility to take specific actions and to communicate with others;

C. A controller's role during an emergency, even if the controller is not the first to detect the emergency, including the controller's responsibility to take specific actions and to communicate with others; *[and]*

D. A method of recording controller shift-changes and any hand-over of responsibility between controllers*./;* **and**

E. The roles, responsibilities and qualifications of others with the authority to direct or supersede the specific technical actions of a controller.

3. Provide adequate information. Each operator must provide its controllers with the information, tools, processes, and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

A. Implement sections 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165 (incorporated by reference in 49 CFR 192.7 and adopted in (1)(D)) whenever a SCADA system is added, expanded, or replaced, unless the operator demonstrates that certain provisions of sections 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165 are not practical for the SCADA system used;

B. Conduct a point-to-point verification between SCADA displays and related field equipment when field equipment is added or moved and when other changes that affect pipeline safety are made to field equipment or SCADA displays;

C. Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed fifteen (15) months;

D. Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed fifteen (15) months; and

E. Establish and implement procedures for when a different controller assumes responsibility, including the content of information to be exchanged.

4. Fatigue mitigation. Each operator must implement the following methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and

responsibilities the operator has defined:

A. Establish shift lengths and schedule rotations that provide controllers off-duty time sufficient to achieve eight (8) hours of continuous sleep;

B. Educate controllers and supervisors in fatigue mitigation strategies and how off-duty activities contribute to fatigue;

C. Train controllers and supervisors to recognize the effects of fatigue; and

D. Establish a maximum limit on controller hours-of-service, which may provide for an emergency deviation from the maximum limit if necessary for the safe operation of a pipeline facility.

5. Alarm management. Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:

A. Review SCADA safety-related alarm operations using a process that ensures alarms are accurate and support safe pipeline operations;

B. Identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities;

C. Verify the correct safety-related alarm set-point values and alarm descriptions at least once each calendar year, but at intervals not to exceed fifteen (15) months;

D. Review the alarm management plan required by this paragraph at least once each calendar year, but at intervals not exceeding fifteen (15) months, to determine the effectiveness of the plan;

E. Monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not to exceed fifteen (15) months, that will assure controllers have sufficient time to analyze and react to incoming alarms; and

F. Address deficiencies identified through the implementation of subparagraphs (12)(T)5.A.-E.

6. Change management. Each operator must assure that changes that could affect control room operations are coordinated with the control room personnel by performing each of the following:

A. Establish communications between control room representatives, operator's management, and associated field personnel when planning and implementing physical changes to pipeline equipment or configuration;

B. Require its field personnel to contact the control room when emergency conditions exist and when making field changes that affect control room operations; and

C. Seek control room or control room management participation in planning prior to implementation of significant pipeline hydraulic or configuration changes.

7. Operating experience. Each operator must assure that lessons learned from its operating experience are incorporated, as appropriate, into its control room management procedures by performing each of the following:

A. Review federal incidents that must be reported pursuant to 49 CFR 240-40.020 to determine if control room actions contributed to the event and, if so, correct, where necessary, deficiencies related to—

- (I) Controller fatigue;
- (II) Field equipment;
- (III) The operation of any relief device;
- (IV) Procedures;
- (V) SCADA system configuration; and
- (VI) SCADA system performance.

B. Include lessons learned from the operator's experience in the training program required by this subsection.

8. Training. Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to

exceed fifteen (15) months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

A. Responding to abnormal operating conditions likely to occur simultaneously or in sequence;

B. Use of a computerized simulator or non-computerized (tabletop) method for training controllers to recognize abnormal operating conditions;

C. Training controllers on their responsibilities for communication under the operator's emergency response procedures;

D. Training that will provide a controller a working knowledge of the pipeline system, especially during the development of abnormal operating conditions; *[and]*

E. For pipeline operating setups that are periodically, but infrequently used, providing an opportunity for controllers to review relevant procedures in advance of their application; *[and]*

F. Control room team training and exercises that include both controllers and other individuals, defined by the operator, who would reasonably be expected to operationally collaborate with controllers (control room personnel) during normal, abnormal, or emergency situations. Operators must comply with the team training requirements under this paragraph by no later than January 23, 2018.

9. Compliance validation. Operators must submit their procedures to designated commission personnel *[as required by]* per subsection (1)(J).

10. Compliance and deviations. An operator must maintain for review during inspection—

A. Records that demonstrate compliance with the requirements of this subsection; and

B. Documentation to demonstrate that any deviation from the procedures required by this subsection was necessary for the safe operation of a pipeline facility.

(13) Maintenance.

(F) Record Keeping. (192.709)

1. For transmission lines each operator shall keep records covering each leak discovered, repair made, line break, leakage survey, line patrol, and inspection for as long as the segment of transmission line involved remains in service. (192.709)

2. For feeder lines, mains, and service lines, each operator shall maintain—

A. Records pertaining to each original leak report for not less than six (6) years;

B. Records pertaining to each leak investigation and classification for not less than six (6) years. These records shall at least contain sufficient information to determine if proper assignment of the leak class was made, the promptness of actions taken, the address of the leak and the frequency of reevaluation and/or reclassification;

C. Records pertaining to each leak repair for the life of the facility involved, except no record is required for repairs of above-ground Class 4 leaks. These records shall at least contain sufficient information to determine the promptness of actions taken, address of the leak, pipe condition at the leak site, leak classification at the time of repair, and other such information necessary for proper completion of DOT annual Distribution and Transmission Line report forms (PHMSA F 7100.1-1 and PHMSA F 7100.2-1); **and**

D. Records pertaining to leakage surveys and line patrols conducted over each segment of pipeline for not less than six (6) years. These records shall at least contain sufficient information to determine the frequency, scope, and results of the leakage survey or line patrol; *and* *[E. Records pertaining to leak tests or surveys conducted in accordance with paragraph (14)(B)7. for not less than two (2) years.]*

3. For yard lines and buried fuel lines, each operator shall maintain records of notifications and leakage surveys required by subsection (13)(M) for not less than six (6) years.

(R) Pressure Limiting and Regulating Stations—Inspection and Testing. (192.739)

1. Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding fifteen (15) months but at least once each calendar year to inspections and tests to determine that it is—

A. In good mechanical condition;

B. Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;

C. Except as provided in paragraph (13)(R)2., set to control or relieve at the correct pressures that will prevent downstream pressures from exceeding the allowable pressures under subsections (4)(FF) and (12)(M)–(O);

D. Properly installed and protected from dirt, liquids, and other conditions that might prevent proper operation;

E. Properly protected from unauthorized operation of valves in accordance with paragraph (4)(EE)8.;

F. Equipped to indicate regulator malfunctions in accordance with paragraphs (4)(EE)10. and 11. in a manner that is adequate from the standpoint of reliability of operation; and

G. Equipped with adequate over-pressure protection in accordance with paragraph (4)(EE)9.

2. For steel pipelines whose MAOP is determined under paragraph (12)(M)3., if the MAOP is sixty (60) psi (four hundred fourteen (414) kPa) gauge or more, the control or relief pressure limit is as follows:

A. If the MAOP produces a hoop stress that is greater than seventy-two percent (72%) of SMYS, then the pressure limit is MAOP plus four percent (4%).

B. If the MAOP produces a hoop stress that is unknown as a percentage of SMYS, then the pressure limit is a pressure that will prevent unsafe operation of the pipeline considering its operating and maintenance history and MAOP.

3. For individual service lines directly connected to production, gathering, or transmission pipelines, requirements for inspecting and testing devices and equipment are provided in subsection (13)(BB).

(Z) Protecting or Replacing Disturbed Cast Iron Pipelines. (192.755) When an operator has knowledge that the support for a segment of a buried cast iron pipeline is disturbed or that an excavation or erosion is nearby, the operator shall determine if more than half the pipe diameter lies within the area of affected soil. For the purposes of this subsection, "area of affected soil" *[shall]* refer to the area above a line drawn from the bottom of the excavation or erosion, at the side nearest the main, at a forty-five degree (45°) angle from the horizontal (a lesser angle should be used for sandy or loose soils, or a greater angle may be used for certain consolidated soils if the angle can be substantiated by the operator). If more than half the pipe diameter lies within the area of affected soil, the following measures/precautions must be taken—

1. That segment of the pipeline must be protected, as necessary, against damage during the disturbance by—

A. Vibrations from heavy construction equipment, trains, trucks, buses, or blasting;

B. Impact forces by vehicles;

C. Earth movement;

D. Water leaks or sewer failures that could remove or undermine pipe support;

E. Apparent future excavations near the pipeline; or

F. Other foreseeable outside forces which may subject that segment of the pipeline to bending stress;

2. If eight inches (8") or less in nominal diameter, then as soon as feasible, this segment of cast iron pipeline, which shall include a minimum of ten feet (10') beyond the area of affected soil, must be replaced, except as noted in paragraph (13)(Z)4.;

3. If greater than eight inches (8") in nominal diameter, then as

soon as feasible, appropriate steps must be taken to provide permanent protection for the disturbed segment from damage that might result from external loads, including compliance with applicable requirements of subsection (7)(J) (192.319) and paragraph (7)(I)1. (192.317[a]); and

4. Replacement of cast iron pipelines would not necessarily be required if—

A. The support beneath the pipe is removed for a length less than ten (10) times the nominal pipe diameter not to exceed six feet (6');

B. For parallel excavations, the pipe lies within the area of affected soil for a length less than ten (10) times the nominal pipe diameter not to exceed six feet (6');

C. The excavation is made by the operator in the course of routine maintenance, such as leak repairs to the main or service line installation, where the exposed portion of the main does not exceed six feet (6'), and the backfill supporting the pipe is replaced and compacted by the operator; or

D. Permanent or temporary shoring was adequately installed to protect the cast iron pipeline during excavation and backfilling.

(BB) Pressure Regulating, Limiting, and Overpressure Protection—Individual Service Lines Directly Connected to Production, Gathering, or Transmission Pipelines. (192.740)

1. This subsection applies, except as provided in paragraph (13)(BB)3., to any service line directly connected to a production, gathering, or transmission pipeline that is not operated as part of a distribution system.

2. Each pressure regulating or limiting device, relief device (except rupture discs), automatic shutoff device, and associated equipment must be inspected and tested at least once every three (3) calendar years, not exceeding thirty-nine (39) months, to determine that it is:

A. In good mechanical condition;

B. Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;

C. Set to control or relieve at the correct pressure consistent with the pressure limits of paragraph (4)(DD)2.; and to limit the pressure on the inlet of the service regulator to sixty (60) psi (414 kPa) gauge or less in case the upstream regulator fails to function properly; and

D. Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

3. This subsection does not apply to equipment installed on service lines that only serve engines that power irrigation pumps.

(14) Gas Leaks.

(C) Leak Classifications. The leak classifications in this subsection apply to pipelines, and do not apply to fuel lines. The definitions for "pipeline," "fuel line," "reading," "sustained reading," "building," "tunnel," and "vault or manhole" are included in subsection (1)(B). The definition for "reading" is the highest sustained reading when testing in a bar hole or opening without induced ventilation. Thus, the leak classification examples involving a gas reading do not apply to outside pipelines located aboveground. Even though the leak classifications do not apply to fuel lines, an operator must respond immediately to each notice of an inside leak or odor as required in paragraphs (12)(J)1., (14)(B)1., and (14)(B)2. In addition, the requirements in paragraph (12)(S)3. apply to fuel lines that are determined to be unsafe.

1. Class 1 leak is a gas leak which, due to its location and/or magnitude, constitutes an immediate hazard to a building and/or the general public. *[It shall require immediate corrective action which shall provide for public safety and protect property]* **A Class 1 leak requires immediate corrective action.** Examples of Class 1 leaks are: a gas fire, flash, or explosion; broken gas facilities such as contractor damage, main failures or blowing gas in a populated area; an indication of gas present in a building emanating from operator-owned facilities; a gas reading equal to or above the lower

explosive limit in a tunnel, sanitary sewer, or confined area; gas entering a building or in imminent danger of doing so; and any leak which, in the judgment of the supervisor at the scene, is regarded as immediately hazardous to the public and/or property. When venting at or near the leak is the immediate corrective action taken for Class 1 leaks where gas is detected entering a building, the leak may be reclassified to a Class 2 leak if the gas is no longer entering the building, nor is in imminent danger of doing so. However, the leak shall be rechecked daily and repaired within fifteen (15) days. Leaks of this nature, if not repaired within five (5) days, may need to be reported as a safety-related condition, as required in 4 CSR 240-40.020(12) and (13). (191.23 and 191.25)

2. Class 2 leak is a leak that does not constitute an immediate hazard to a building or to the general public, but is of a nature requiring action as soon as possible. The leak of this classification must be rechecked every fifteen (15) days, until repaired, to determine that no immediate hazard exists. A Class 2 leak may be properly reclassified to a lower leak classification within fifteen (15) days after the initial investigation. Class 2 leaks due to readings in sanitary sewers, tunnels, or confined areas must be repaired or properly reclassified within fifteen (15) days after the initial investigation. All other Class 2 leaks must be eliminated within forty-five (45) days after the initial investigation, unless it is definitely included and scheduled in a rehabilitation or replacement program to be completed within a period of one (1) year, in which case the leak must be rechecked every fifteen (15) days to determine that no immediate hazard exists. Examples of Class 2 leaks are: a leak from a transmission line discernible twenty-five feet (25') or more from the line and within one hundred feet (100') of a building; any reading outside a building at the foundation or within five feet (5') of the foundation; any reading greater than fifty percent (50%) gas-in-air located five to fifteen feet (5'-15') from a building; any reading below the lower explosive limit in a tunnel, sanitary sewer, or confined area; any reading equal to or above the lower explosive limit in a vault, catch basin, or manhole other than a sanitary sewer; or any leak, other than a Class 1 leak, which in the judgment of the supervisor at the scene, is regarded as requiring Class 2 leak priority.

3. Class 3 leak is a leak that does not constitute a hazard to property or to the general public but is of a nature requiring routine action. These leaks must be repaired within five (5) years and be rechecked twice per calendar year, not to exceed six and one-half (6 1/2) months, until repaired or the facility is replaced. Examples of Class 3 leaks are: any reading of fifty percent (50%) or less gas-in-air located between five and fifteen feet (5'-15') from a building; any reading located between fifteen and fifty feet (15'-50') from a building, except those defined in Class 4; a reading less than the lower explosive limit in a vault, catch basin, or manhole other than a sanitary sewer; or any leak, other than a Class 1 or Class 2 which, in the judgment of the supervisor at the scene, is regarded as requiring Class 3 priority.

4. Class 4 leak is a confined or localized leak which is completely nonhazardous. No further action is *[required]* **necessary.**

(15) Replacement Programs.

(B) Replacement Programs—General Requirements. Each operator shall establish written programs to implement the requirements of this section. The requirements of this section apply to pipelines as they existed on December 15, 1989. *[These programs shall be filed with designated commission personnel in accordance with subsection (1)(J) by May 1, 1990.]*

(C) Replacement Program—Unprotected Steel Service Lines and Yard Lines. At a minimum, each investor-owned, municipal, or master meter operator shall establish instrument leak detection survey and replacement programs for unprotected operator-owned and customer-owned steel service lines and yard lines. The operator *[shall]* **may** choose from the following options, unless otherwise ordered by the commission, *and shall notify the commission by May 1, 1990, of which option or combination of options the*

operator will implement]:

1. Conduct annual instrument leak detection surveys on all unprotected steel service lines and yard lines and implement a replacement program where all unprotected steel service lines and yard lines will be replaced by May 1, 1994;

2. Conduct annual instrument leak detection surveys on all unprotected steel service lines and unprotected steel yard lines. The operator shall compile a historical summary listing the cumulative number of unprotected steel service lines and yard lines installed, replaced, or repaired due to underground leakage and with active underground leaks in a defined area. Based on the results of the summary, the operator shall initiate replacement, to be completed within eighteen (18) months, of all unprotected steel service lines and yard lines in a defined area once twenty-five percent (25%) or more meet the previously mentioned repair, replacement, and leakage conditions. At a minimum, ten percent (10%) of the customer-owned unprotected steel service lines in the system as of December 15, 1989, must be replaced annually. Beginning with calendar year 1994, a minimum of five percent (5%) of the unprotected steel yard lines, and operator-owned and installed unprotected steel service lines in the system as of December 15, 1989, must be replaced annually; and

3. Conduct annual instrument leak detection surveys on all unprotected steel service lines and unprotected steel yard lines and implement a replacement program. The program must prioritize replacements based on the greatest potential for hazards. At a minimum, ten percent (10%) of the customer-owned unprotected steel service lines in the system as of December 15, 1989, must be replaced annually. Beginning with calendar year 1994, a minimum of five percent (5%) of the unprotected steel yard lines, and operator-owned and installed unprotected steel service lines in the system as of December 15, 1989, must be replaced annually.

(17) Gas Distribution Pipeline Integrity Management (IM)

(B) What Do the Regulations in this Section Cover? (192.1003) *[This section prescribes minimum requirements for an IM program for any gas distribution pipeline covered under this rule. A gas distribution operator, other than a master meter operator, must follow the requirements in subsections (17)(C)–(G). A master meter operator of a gas distribution line must follow the requirements in subsection (17)(H). Information about IM programs is available at <http://primis.phmsa.dot.gov/dimp/>.]*

1. **General.** Unless exempted in paragraph (17)(B)2., this section prescribes minimum requirements for an IM program for any gas distribution pipeline covered under this rule, including liquefied petroleum gas systems. A gas distribution operator, other than a master meter operator, must follow the requirements in subsections (17)(C)–(G). A master meter operator must follow the requirements in subsection (17)(H).

2. **Exceptions.** Section (17) does not apply to an individual service line directly connected to a transmission, gathering, or production pipeline.

(C) What Must a Gas Distribution Operator (Other than a Master Meter Operator) Do to Implement this Section? *[(191.1005) 192.1005]* No later than August 2, 2011, a gas distribution operator must develop and implement an integrity management program that includes a written integrity management plan as specified in subsection (17)(D).

Appendix E to 4 CSR 240-40.030

Appendix E/M]—Table of Contents—Safety Standards—Transportation of Gas by Pipeline.

4 CSR 240-40.030(1) General

(L) Customer Notification, *[Required by]* Paragraph (12)(S)2.

4 CSR 240-40.030(3) Pipe Design

(K) Design of Copper Pipe for Repairs. (192.125)

(L) Additional Design Requirements for Steel Pipe Using Alternative Maximum Allowable Operating Pressure. (192.112)

4 CSR 240-40.030(5) Welding of Steel in Pipelines

(B) General. *[(192.223)]*

4 CSR 240-40.030(7) General Construction Requirements for Transmission Lines and Mains

(O) Additional Construction Requirements for Steel Pipe Using Alternative Maximum Allowable Operating Pressure. (192.328).

4 CSR 240-40.030(8) Customer Meters, Service Regulators, and Service Lines

(Q) Manual Service Line Shut-Off Valve Installation (192.385)

4 CSR 240-40.030(9) Requirements for Corrosion Control.

(B) How Does this *[Subsection]* Section Apply to Converted Pipelines and Regulated Onshore Gathering Lines? (192.452)

4 CSR 240-40.030(12) Operations

(M) Maximum Allowable Operating Pressure—Steel or Plastic Pipelines. (192.619 and 192.620)

4 CSR 240-40.030(13) Maintenance

(BB) Pressure Regulating, Limiting, and Overpressure Protection—Individual Service Lines Directly Connected to Production, Gathering, or Transmission Pipelines. (192.740)

4 CSR 240-40.030(17) Gas Distribution Pipeline Integrity Management (IM)

(C) What Must a Gas Distribution Operator (Other than a Master Meter Operator) Do to Implement this Section? *[(191.1005) 192.1005]*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. GX-2018-0279. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for August 20, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-40.080 Drug and Alcohol Testing. The commission is amending sections (1) and (4).

PURPOSE: This amendment modifies the rule to address any amendments of 49 CFR parts 40 and 199 promulgated between October 2015 and September 2017.

(1) As set forth in the *Code of Federal Regulations* (CFR) dated October 1, [2015] 2017, 49 CFR parts 40 and 199 are incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR parts 40 and 199. The *Code of Federal Regulations* is published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, [2015] 2017 version of 49 CFR parts 40 and 199 is available at www.gpo.gov/fdsys/search/showcitation.action.

(4) For purposes of this rule, the following substitutions should be made for certain references in the federal pipeline safety regulations adopted by reference in section (2) of this rule:

(D) The references to the applicability exemptions for operators of master meter systems as defined in section “191.3 of this chapter” in 49 CFR 199.2 should refer to [“4 CSR 240-40.020(2)(F)”] “4 CSR 240-40.020(2)(G)” instead.

AUTHORITY: sections 386.250, 386.310, and 393.140, RSMo 2016. Original rule filed Nov. 29, 1989, effective April 2, 1990. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission’s offices on or before August 15, 2018, and should include a reference to Commission Case No. GX-2018-0279. Comments may also be submitted via a filing using the commission’s electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for August 20, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

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

PROPOSED RESCISSION

10 CSR 20-4.010 Construction Grant and Loan Priority System.

This rule set forth the system used by the commission to prioritize projects for the Environmental Protection Agency wastewater treatment construction grants program, the state matching grant program and the state construction grants program. This rule set forth state eligibility limitations for grants under the Environmental Protection Agency wastewater treatment construction grants program and the state matching grant program. This rule also set forth the methods used by the commission to develop and modify lists of grant projects eligible for funding under the Environmental Protection Agency wastewater treatment construction grants program and the state matching grant program.

PURPOSE: This rule is being rescinded. Section (1) Priority Point System will be deleted and the department will create Priority Point Criteria to be noticed annually for public comment and adopted by the Clean Water Commission. Proposed to move section (2) Priority Lists and Section (3) Modifications to 10 CSR 20-040 State Revolving Fund General Assistance Regulation.

AUTHORITY: section 644.026, RSMo 2000. Original rule filed Dec. 4, 1975, effective Dec. 14, 1975. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 13, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for the Clean Water Commission to be held at 10 a.m. on August 15, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring/Roaring River Conference Rooms, 1730 East Elm Street, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

10 CSR 20-4.030 Grants for Sewer Districts and Certain Small Municipal Sewer Systems.

The department is amending the purpose of the rule; renumbering the sections within this rule; amending subsection (1)(A) Grant Application Requirements; updating terminology in subsection (1)(A); adding “cost” to the preliminary engineering study in subsection (1)(D); modifying the language in subsection (1)(D) to replace latest census with most recent decennial census and adding an income survey overseen by a state or federal agency; including additional language under paragraphs (1)(D)5.-6. and renumbering this section; updating terminology under section (2); deleting the grant limitations and maximum grant amount under subsection (2)(B);

removing duplicative language and updating terminology under subsection (2)(C); removing grant amount and referencing the law in subsection (2)(C); including new language to clarify eligible costs for connecting unsewered areas in paragraph (2)(D)1., updating terminology and stating the drawings and specifications for the project and such services must have been procured with state law to be eligible costs in subsection (2)(D); removing that applicants cannot receive more than one grant period in any two- (2-) year period in subsection (2)(E) and renumbering this section; removing prior section (4) Approval and Payment of Grants Made and Amended Between March 4, 2007 and August 30, 2007, in its entirety; adding "Funds" to Approval and Payment of Grants in section (5), removing when the department notifies approval of the grant application in subsection (5)(A); updating terminology in subsection (5)(A), adding demonstration by the applicant that funding for the total project costs has been secured in subsection (5)(A); removing how often payments can be requested in subsection (5)(C); replacing three (3) years with two (2) years when describing when the department will recover grant payments if not utilized and including applicants requesting an extension in section (5) and renumbering this section; replacing twenty (20) years with thirty (30) years in section (6); removing design life of facilities in section (6); and clarifying how the grant funds to be reimbursed will be based if the facility is sold, in section (6).

PURPOSE: The amendment removes language that is no longer applicable, clarifies current language, and eliminates duplicative and unnecessary regulatory requirements. The purpose is also being amended to reference current statutes.

PURPOSE: This rule defines the department's grant eligibility and a means of administering the state funds appropriated for rural community and sewer district sanitary sewer collection systems by defining rural communities and sewer districts pursuant to sections 640.600, 640.605, 640.615, and 640.620, RSMo.

(1) Grant Application Requirements.

(A) *[As required by section 640.615, RSMo, t]*The applicant must first apply with the agency or other financial source which is to furnish the primary financial assistance, and after the amount of that assistance has been determined, an application for a grant under this rule may be made to and processed by the department. *[This requirement may be met by the submittal of a pre-application form and preliminary engineering report to the Missouri Water and Wastewater Review Committee (MWWRC).]*

[(B)] An application for a grant shall be submitted on forms provided by the department. *The application shall be* and supported by the necessary documents and forms from other state and federal grant or lending agencies or private lending agencies to enable the department to establish eligibility for grant funds.

[(C)](B) The project for which the grant application is submitted shall comply with appropriate state and local laws, rules, and ordinances.

[(D)](C) The grant application packet shall contain the information identified below:

1. The preliminary engineering cost study for the proposed project including, but not limited to, the following items: development and administration costs; land, structures, right-of-way costs; legal costs; engineering costs; interest costs; equipment costs, contingencies; other costs; total project costs; and other information as required in rule 10 CSR 20-8.110;

2. Information required to determine the cost per contracted connection of the proposed project;

3. The median household income of the residents in the district or community; as determined by the *[latest] most recent decennial census or by an income survey overseen by a state or federal agency; [and]*

4. Information required to determine the ratio of contracted users to potential users.];

5. The number of acres being protected for any source water

protection project; and

6. Demonstration of recipient's legal, institutional, managerial, and financial capability to ensure adequate operation and maintenance of the wastewater treatment works throughout recipient's jurisdiction.

(2) Eligibility Requirements.

(A) Grants shall be limited to *[rural communities, neighborhood improvement districts,]* **municipal sewer systems**, certain public water supply districts or public sewer districts of less than ten thousand (10,000) population.

(B) Grants awarded under this regulation can be used *[to supplement other funding sources]* to provide collection sewers to unsewered areas. *[Grants for collection sewers are limited to one thousand four hundred dollars (\$1,400) per new connection up to fifty percent (50%) of the eligible project costs. No grant will exceed five hundred thousand dollars (\$500,000).]*

(C) Grants awarded under this regulation can be used *[by any community with less than ten thousand (10,000) population, public sewer district or public water district]* to fund *[up to fifty percent (50%) of the]* costs *[required] incurred* to meet more stringent operating permit requirements when those increased permit requirements are attributable to changes in, or the implementation of, the state water quality policies or state water quality standards.

(D) Grants will be the lesser of *[one thousand four hundred dollars (\$1,400)]* the per connection *[or]* **amount specified in 640.620, RSMo**, or fifty percent (50%) of the eligible costs of the *[upgrades (including the proportional share of the associated engineering)]* **improvements**, or five hundred thousand dollars (\$500,000) *[whichever is less]*.

[(D)](E) *[Other than pre-approved financing costs, no more than fifty percent (50%) of total eligible costs will be reimbursed through the grant.]* Grants *[shall]* **may** be used for the following costs:

1. Construction *[contracts]* costs for the *[construction]* **installation of new sewer collection lines, lift stations, and associated facilities required to serve an unsewered area. House laterals are not eligible;**

2. Construction costs for the installation, rehabilitation, or upgrade of *[publicly owned]* a wastewater *[systems. House laterals are not eligible]* **treatment facility as specified in subsection (2)(C);**

[2.]3. Engineering *[costs including]* services and other services incurred in preparing the design, planning and construction phase engineering if the costs are supported by an engineering agreement pre-approved by the department; and **drawings and specifications for the project. Such services must have been procured in accordance with state law to be eligible costs.**

[3. One hundred percent (100%) of the reasonable costs of a grant anticipation loan will be eligible. Departmental approval must be obtained prior to securing the grant anticipation loan. Grant anticipation loan costs will be approved when they are needed for cash flow purposes for the period between grant award and the first grant payment from the department. The approved costs of grant anticipation notes will be in addition to the approved grant amount.]

[(E) No applicant shall receive more than one (1) grant for a sewer collection project in any two (2)-year period.]

[(4) Approval and Payment of Grants Made and Amended Between March 4, 2007 and August 30, 2007.

(A) The applicant shall be notified by the department when the grant application has been approved. Grant award shall be made upon receipt and approval of bid documents and executed contract documents.

(B) Full payment of the grant amount shall be made at the time of the department's receipt of the executed grant award or grant amendment. The following provisions shall apply:

1. The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-1.102, RSMo;

2. The full grant award amount, less any payments processed prior to the date of this rule, will be paid to the grantee for deposit into the grantee's established escrow account;

3. Grant funds in the escrow account may be used to pay up to fifty percent (50%) of the costs of construction, equipment and construction phase engineering as the costs are incurred. No funds will be withdrawn for the construction of house laterals; and

4. The grantee shall submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs.

(C) Any cost of work completed after submission of the statement of work completed form shall not be considered an eligible project cost. The grant amount will be reduced, if necessary, to reflect actual project costs as determined by the invoices submitted by the grantee.

(D) The department will verify project completion after a final inspection by the department has been conducted.

(E) An audit to verify expenditure of grant funds may be made by the department after the completion of each approved project. Any funds found not expended for the purposes listed in subsection (2)(D) of this regulation will be recovered.]

[(5)](4) Approval and Payment of Grant [Made after August 30, 2007] Funds.

(A) The [department shall notify the applicant when the grant application has been approved. G]grant award shall be made upon receipt and approval of bid documents, [and] executed contract documents, **and demonstration by the applicant that funding for the total project costs has been secured.** The department may elect to pay out the full grant amount at the time of grant award or to make payments to the grantee based on the cash flow circumstances of the state funds.

(B) If the department elects to make full payment of the grant amount, payment shall be made at the time of the department's receipt of the executed grant award. The following provisions apply:

1. The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-1.102, RSMo;

2. The full grant award amount will be paid to the grantee for deposit into the grantee's established escrow account;

3. Grant funds in the escrow account may be used to pay up to fifty percent (50%) of the costs of construction, equipment, and construction phase engineering as the costs are incurred. No funds will be withdrawn for construction costs of house laterals or for costs that have been declared ineligible by the department;

4. The grantee will submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee must submit copies of the invoices to document the costs; and

5. The bank account may earn interest, however, all withdrawals from the account must be documented with eligible invoices. If the project costs are inadequate to withdraw all the funds in the account, the balance must be refunded to the department.

(C) [If the department elects to make grant payments rather than fund the full grant, payments can be requested no more frequently than monthly.] The department will provide

a payment request form for the grantee to use. The payment request must be supported by invoices that document the costs incurred.

(D) [Any cost of work completed after submission of the statement of work completed form shall not be considered an eligible project cost.] The grant amount will be reduced, if necessary, to reflect actual project costs as determined by the invoices submitted by the grantee.

(E) The department will verify project completion after the final inspection by the department has been conducted.

(F) Any funds remaining in the escrow account [three (3)] two (2) years after the date of the initial grant payment will be recovered by the department. On grants that are paid incrementally by the department, no payments will be made after [three (3)] two (2) years from the initial grant award acceptance, **unless an extension is granted by the department.**

(G) An audit to verify expenditure of grant funds may be made by the department [after the completion of each approved project]. Any funds found not expended for the purposes listed in subsection (2)[(D)](E) of this regulation will be recovered.

[(6)](5) If at any time [during the twenty (20)-year design life of the facility(ies)] within thirty (30) years after initiation of operations of the project, the wastewater treatment works funded under this rule, or any part thereof, is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a [twenty (20)] thirty- (30-)[-] year straight-line depreciation based on the original costs of the facilities being sold and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership of the facility(ies).

AUTHORITY: section 640.600 and 640.615, RSMo [2000] 2016 Original rule filed Feb. 2, 1983, effective July 1, 1983. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for the Clean Water Commission to be held at 10 a.m. on August 15, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring/Roaring River Conference Rooms, 1730, East Elm Street, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

10 CSR 20-4.040 Clean Water State Revolving Fund General Assistance Regulation. The department is removing rescinded federal requirement and incorporating CFR and census source in section

(1); removing definitions found in CFR; adding, amending, or editing other definitions as necessary in section (2); revising application timeline and removing language for rescinded federal requirements in section (3); removing rescinded federal requirement, adding new federal requirement, establishing Target Interest Rate policy, and removing policy details in section (4); changing loan fee to match approved rate and clarifying loan fee uses in section (5); amending for clarification and adding additional fee for late repayment in section (6); amending several references, removing obsolete federal requirement, and adding new federal requirements or policies in section (7); amending reference, removing superseded federal guidance, and adding new federal requirement in section (9); amending based on current federal policy and amending financial assistance descriptions in section (10); amending to reflect current accounting method required by federal government in section (11); amending reference in section (12); adding engineering procurement exemption for design build projects in section (13); removing outdated federal requirement, and clarifying meeting requirements in section (14); deleting section (15) and renumbering sections (16) through (25); removing a redundant sentence, and clarifying sentence on requirement for satellite system in section (16); citing appropriate regulations and regulatory limits, removing verbatim language found in federal regulations, removing obsolete requirement, and adding new requirement in section (17); amending for clarification, adding new requirements, and updating regulatory limits in section (18); amending regulation citation, removing verbatim federal language, grouping appropriate items together, and updating language to new regulations in section (21); citing statute in section (23); adding regulation for cost recovery on property sale in section (25); adding new state regulation requirement for design-build in section (26); adding new regulation to allow loans for reports not covered under chapter 8 design in section (27); adding fiscal sustainability regulation for federal requirement in section (28); and adding regulation to incorporate language rescinded from 10 CSR 20-4.010 in section (29).

PURPOSE: The amendment revises the rule purpose, and removes regulations that are no longer applicable, clarifies current rule language, and eliminates duplicative and unnecessary regulatory requirements.

PURPOSE: This rule sets forth requirements for the implementation of Title VI of the Federal Water Pollution Control Act, as amended [in 1987], which authorizes the administrator of the Environmental Protection Agency to make capitalization grants to states for financing the Clean Water State Revolving Fund Program[s].

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 defines the minimum requirements which apply to all recipients of assistance under the **Clean Water State Revolving Fund [(SRF)] Program. Recipients of assistance are subject to the requirements of this regulation, unless otherwise specified.** The recipient must satisfy more stringent requirements, if required to do so by applicable federal laws, regulations, or guidance and state or local statutes, policies, rules, ordinances, [or] orders, or **loan documentation.** [Recipients of assistance under the *American Recovery and Reinvestment Act of 2009* are subject to the requirements of this regulation, unless otherwise specified.] **The Code of Federal Regulations referenced in the regulation are incorporated as published July 1, 2017. The regulations are incorporated by reference without any later amend-**

ments or modifications. To obtain a copy, contact the U.S. Government Printing Office at 732 North Capitol Street, NW, Washington D.C., 20401, toll free at (866) 512-1800 or by visiting <https://bookstore.gpo.gov>. To obtain the decennial median household income visit the U.S. Census Bureau American Fact Finder webpage https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml, contact the U.S. Census Bureau, 4600 Silver Hill Road, Suitland, MD 20746, or toll free at (800) 923-8282.

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

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

[(B)] *BPWTT—Best practicable waste treatment technology.*

[(C)] *Collection sewers—Sewers having the primary purpose of collecting wastewater from individual properties.*

[(D)] *Combined sewers—Sewers constructed to carry both storm water and sanitary sewage.]*

[(A)] **Assistance—The types of financial assistance allowed pursuant to 33 U.S.C. 1383(d)(1)–(5).**

[(B)] **Clean Water State Revolving Fund (CWSRF)—The financial assistance program authorized by Title VI of the Federal Water Pollution Control Act.**

[(E)](C) **Debt service—The costs associated with amortizing loans. These costs include interest charges, penalty charges, and repayment of principal.**

[(F)] *Director of staff—The director of staff of the Missouri Clean Water Commission.]*

[(G)](D) **EIERA—State Environmental Improvement and Energy Resources Authority.**

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

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

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

[(K)](G) **Intended Use Plan—A planning document, prepared by the Department of Natural Resources, that identifies the intended uses of available funds.**

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

[(H)] **Loan—Unless stated otherwise, loan generally refers to the agreement to lend money to an eligible recipient. The type of agreement could be a loan agreement, bond purchase agreement, or other debt instrument.**

[(M)](I) **Readiness to proceed—The submittal, by the applicant, of a complete engineering report/facility plan and documentation that the applicant has an acceptable debt instrument including any necessary funding commitments from other state and/or federal agencies. A detailed plan may be substituted for a facility plan for requests of planning financial assistance.**

[(N)](J) **Recipient—The recipient of financial assistance from programs supported or secured by the Water and Wastewater Loan Fund (WWLF), the Water and Wastewater Loan Revolving [Loan]**

Fund [(WWRLF)] (WWLRF), CWSRF bonds issued by EIERA, or state bond funds.

[(O)](K) Staff—Staff of the Missouri Department of Natural Resources.

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

[(Q) Subagreements—Agreements and contracts entered into by recipients.]

[(L) Treatment works—Refer to the definition in Section 212 of the Federal Water Pollution Control Act.

[(R)](M) WWLF—Water and Wastewater Loan Fund. State fund established by the state treasurer pursuant to section 644.122, RSMo.

[(S)](N) [(WWRLF) WWLRF—Water and Wastewater Loan Revolving [Loan] Fund. State fund under the WWLF into which repayments are held by the state treasurer and from which new loans may be made.

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

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

1. Applicants—

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

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

1. Applications postmarked or received by the Water Protection Program by the calendar date established in the annual application package will be considered for competitive placement on the annual Intended Use Plan. The deadline will be no sooner than sixty (60) days after the application package is made available. Applications are valid for two (2) annual Intended Use Plan cycles. Applications received after the deadline may be placed on a priority list as determined by the commission based on availability of funds;

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

3. All qualified applications will be rated and placed on the appropriate list in accordance with 10 CSR 20-4.1010/040(29)(B) and, in addition, applicants seeking ARRA funding shall also be rated in accordance with the American Recovery and

Reinvestment Act of 2009 and corresponding federal guidance];

4. The commission will select the [highest rated] projects with the highest priority points, meeting readiness to proceed criteria, for CWSRF assistance from CWSRF funds anticipated to be available during the upcoming fiscal year; and

[5. The commission may hold a separate competition for projects requesting loans with a term of less than three (3) years; and]

[6.]5. The commission may hold a separate competition for projects seeking funding whenever [appropriate and] allowed by federal law and in the event supplemental funds are provided.

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

(4) Target Interest Rate (TIR). The TIR policy shall be established by the Missouri Clean Water Commission in consultation with the department and the EIERA based upon current economic factors, projected fund utilization, deposits in the [Wastewater Revolving Loan Fund] WWLRF, and actual or anticipated federal capitalization grants, and be published in the annual Intended Use Plan. [The department will use the Twenty-Five Bond Revenue Index as published in The Bond Buyer (or any successor publication) as the basis for determining the TIR.] The department reserves the right to refinance, assign, pledge, or leverage any loans originated under this [subsection] rule.

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

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

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

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

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

3. Has an average wastewater user charge for five thousand (5,000) gallons that is at least two percent (2%) of the median household income of the applicant, determined by the decennial census or income survey listed in (4)(A)2.

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

as federal law requires or allows.]

(B) Additional Subsidization. Additional subsidization (such as principal forgiveness, negative interest loans, grants, or the like) may be provided as the Federal Water Pollution Control Act as amended, or any subsequent federal act, requires or allows.

(C) In accordance with section 603(d)(1)(A) of the Federal Water Pollution Control Act, the term of the assistance agreement shall be established per the provisions in 10 CSR 20-4.041(8)(A).

(5) Loan Fees. The department may charge annual loan administrative fees not to exceed one-half percent [(1%)] (0.5%) of the outstanding loan balance of each loan [*provided from the WWLF or the WWRLF, except as provided under section (6). These fees shall be used in accordance with federal SRF program guidance.*] for loan origination, loan servicing and administration of the program. Other loan expenses including, but not limited to, cost of issuance, debt service reserve and expenses charged by the paying agent will be paid by the recipient.

(6) Additional Administrative Fees Allowed. Additional administrative fees may be assessed by the department at the time the administration fee is calculated for failure by a recipient to pay debt service on the loan or submit approved documents to the department (for example, operation and maintenance manuals, enacted user charge and sewer use ordinances, executed contract documents) in accordance with the time frames provided under the program agreement entered into by the recipient. The additional fee will be an additional one-tenth percent (0.1%) per month that the [document] recipient remains delinquent. The additional fee for delinquent documents will be collected only during the year in which the document is not submitted.

(7) General CWSRF Assistance Requirements. The commission will prioritize potential CWSRF projects by assigning priority points in accordance with [10 CSR 20-4.010] the CWSRF Priority Point Criteria established per subsection (29)(A) of this rule.

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

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

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

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

[(E)](C) For equivalency projects, the recipient and its contractors must comply with all requirements associated with funds provided under [the Federal Water Pollution Control Act. Equivalency projects will be so designated in the annual Intended Use Plan developed in accordance with this rule] 40 CFR 35.3135.

[(F)](D) If the department determines that an applicant is in significant noncompliance with a valid National Pollutant Discharge Elimination System (NPDES) permit or Missouri State Operating

Permit, the Federal Water Pollution Control Act as amended, the Missouri Clean Water Law as amended, or implementing regulations, then the department may refuse to provide financial assistance to such applicant, or require the applicant to reach a binding agreement regarding corrective actions the applicant will take to address such noncompliance.

(E) All recipients are encouraged to retain the services of a financial advisor who is registered with the U.S. Securities Exchange Commission.

(F) American Iron and Steel. Recipients will need to keep supporting documentation to show that iron and steel products used comply with the requirements of 33 U.S.C. 1388 and subsection (17)(N) of this rule unless a waiver has been received.

(9) Facility Planning. All facility plans must be in accordance with [*accepted engineering practices and the current Waste Treatment Design Guide*] 10 CSR 20-8.110.

(A) Requirements for all projects are as follows:

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

2. An estimate of the average user charge including documentation for the basis of the estimate; and

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

[(B) Applicants that do not propose to employ a full time operator, forty (40) hours per week, must evaluate passive or easy to operate treatment alternatives before considering a mechanical activated sludge package plant. Passive or easy to operate alternatives may include, but are not limited to, enhanced natural systems, submerged fixed film systems, sand filters, and recirculating pea gravel filters.

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

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

(B) Recipients meeting the definition of municipality or inter-municipal, interstate or state agency shall provide a certification with the facility plan that it complies with cost and effectiveness requirements found in Section 602(b)(13) of the Federal Water Pollution Control Act.

(10) Additional Preclosing Requirements.

(A) Submittal Deadline. All documents necessary to provide assistance must be submitted to the department in sufficient time, as agreed upon in the project schedule, to allow adequate time for review and [*must be approved sixty (60) days*] approval prior to the [pool] loan closing date established by the department. [*The commission has the authority to extend deadlines if justified.*]

(B) Final Document Submittal. Documents listed in paragraphs (10)(B)1.-[8.9]. must be submitted and [*approved*] accepted by the department:

1. Resolution identifying the authorized representative by name. Applicants [*for assistance under the SRF*] shall provide a resolution by the governing body designating a representative authorized to file the application for assistance, reimbursement requests, and act in

behalf of the applicant in all matters related to the project;

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

3. *[Draft]* **If engineering services are to be reimbursed, an engineering contract as described in section (12) and the appropriate procurement documentation as described in section (13);**

4. If applicable, the design-build contract per section (26) and the appropriate procurement documentation;

[4.]5. [Draft] **Adopted** user charge ordinance as described in section *[(17)]* (16);

[5.]6. [Draft] **Enacted** sewer use ordinance as described in section *[(17)]* (16);

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

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

B. Construction completion;

C. Initiation of operation; and

D. Project completion;

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

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

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

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

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

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

[A.]3. The recipient shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly the amount, receipt, and disposition by the recipient for all assistance received for the project and the total costs of the project of whatever nature incurred for the performance of the project for which the assistance was awarded. *[Some of the minimum standards for an adequate accounting system are—]*

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

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

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

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

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

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

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

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

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

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

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

(B) **Annual Audit/s/ed Financial Statements.**

1. The recipient shall *[request]* **cause** an audit of the *[system]* **recipient's annual financial report** for the preceding fiscal year to be made by a certified public accountant or firm of certified public accountants employed for that purpose.

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

B. Within one hundred eighty (180) days after the end of the recipient's fiscal year, a copy of the annual **financial report** will be submitted to the department **as long as the recipient is in loan repayment status. A recipient who cannot meet this deadline will notify the department in writing of the delay with the expected date of completion.**

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

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

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

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

2. **As required by federal law, a recipient must comply with the provisions of OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as amended, governing the audit of state and local governments. When applicable, a copy of this audit, including all written comments and recommendations of the accountant, will be furnished to the department within the time period as provided in OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.**

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

(A) **General Requirements for [Subagreements] Contracts.**

1. Be necessary for and directly related to the accomplishment of the project work.

2. Be a lump sum or cost plus fixed fee contract in the form of

a bilaterally executed written agreement.

3. Be for monetary consideration.
4. Not be in the nature of a grant or gift.
5. State a time frame for performance.
6. State a cost which cannot be exceeded except by amendment.
7. State provisions for payment; and

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

1. Preparing an operation and maintenance manual if required by the department and as defined in subsection *[(23)](22)(A)*;
2. Assisting the recipient in bid letting;
3. Assisting the recipient *[subdivision]* in reviewing and analyzing construction bids and making recommendations for award; and
4. Inspecting during construction to ensure conformance with the construction contract documents unless waived by the department.

(C) Executed Engineering Contract Submittal. The final approved executed engineering contract must be submitted prior to the first reimbursement request.

(13) Procurement of Engineering Services. The procurement of engineering services shall be in accordance with sections 8.285 through 8.291, RSMo, **unless such engineering services are performed as part of a design-build contract pursuant to section (26).**

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

[(A) A public meeting shall be conducted to discuss the alternative engineering solutions.]

[(B)](A) Prior to approval of the draft user charge ordinance, a public hearing, in accordance with section 250.233, RSMo, shall be conducted to specifically address the proposed user charge rates.

(B) Public notice of the hearing shall be published at least thirty (30) days prior to the meeting date. **Public hearing notices shall include the date, time and place of the hearing. The notice may be for multiple hearings and should include a separate starting time for each hearing.** The recipient shall prepare a transcript, recording, or other complete record of the proceeding and submit it to the department and make it available at no more than cost to anyone who requests it. A copy of the record should be available for public review; and

(C) Public participation requirements for environmental review are contained in 10 CSR 20-4.050*[(2)](4)(B)2*.

[(15) Design. Design of the project will be in conformance with accepted engineering practices and the current Waste Treatment Design Guide, 10 CSR 20-8. A preliminary design submittal, including the design criteria and facilities layout sheet, may be required at approximately the twenty percent (20%) design stage.]

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

- (A) The operation and maintenance responsibilities of each party upon which the costs are allocated;
- (B) The formula by which the costs are allocated;
- (C) The manner in which the costs are allocated;
- (D) The term of the agreement, which shall be, at a minimum, for

the term of the loan;

- (E) The method for resolution or arbitration of disputes;
- (F) The procedure for amending or renegotiating the agreement;
- (G) The enforcement authority; and
- (H) The effective date of the agreement.

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

(A) The user charge system must be designed to produce adequate revenues required for the operation and maintenance, including a reserve for equipment replacement. A one hundred ten percent (110%) debt service reserve may be required. The sewer user rate for operation and maintenance, including replacement, shall be proportional and based upon actual use. Each user charge system must include an adequate financial management system that will accurately account for revenues generated by the system, debt service, and loan fee costs and expenditures for operation and maintenance, including replacement based on an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy, and administration. The user charge system shall provide that the costs of operation and maintenance for all flow not directly attributable to users be distributed equally among the users. The system shall provide for an annual review of charges. A user charge system shall be adopted by all *[political subdivisions] municipalities (as defined in 40 CFR 35.2005(b)(27) receiving waste treatment services [from the recipient] if required by federal law.*

(B) Low Income Residential User Rates.

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

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

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

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

(A) Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description, in competitive procurements, shall not contain features which unduly restrict competition unless the features are necessary to test or demonstrate a specific thing or to provide for interchangeability of parts and equipment. The description shall include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and

standards to which it must conform if it is to satisfy its intended use;

(B) The recipient shall avoid the use of detailed product specifications if at all possible;

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

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

(E) Experience Clause Restriction. **The general use of experience clauses is restricted to special cases.**

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

2. **The general use of experience clauses requiring contractors to have a record of satisfactory experience for a specified period of time or the completion of a specified number of similar projects is restricted to special cases where the recipient’s engineer adequately justifies any such requirement in writing. Such justification shall not unduly restrict competition or result in excessive bonding requirements. Where this justification has been made, submission of a bond or deposit shall be permitted instead of the specified experience. The period of time for which the bond or deposit is required shall not exceed the experience period specified;**

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

(G) Bonding. On construction contracts exceeding *[one hundred/ fifty thousand dollars [(\$100,000)] (\$50,000)*, the bid documents shall require each bidder to furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition, the bid documents must require the successful bidder to furnish performance and payment bonds, each of which shall be in an amount not less than one hundred percent (100%) of the contract price;

(H) State Wage Determination. The bid documents shall contain the current prevailing wage determination issued by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards as **established by 290.210-290.340, RSMo;**

(I) *[Contractors for ARRA-funded projects]* **Davis-Bacon Wage Requirements. Construction of treatment of works must comply with the Davis-Bacon [Act (40 U.S.C. 276a–276a-7)] requirements in accordance with 29 CFR 5.5.** The current Davis-Bacon wage rate from the United States Department of Labor must be incorporated in the bid documents;

(J) Small, Minority, Women’s, and Labor Surplus Area Businesses. The recipient shall *[take affirmative steps and the bid documents shall require the bidders to take affirmative steps to assure that small, minority, and women’s business-*

es are used when possible as sources of supplies, construction, and services. Affirmative steps shall include the following:] comply with 2 CFR 200.321 and 40 CFR part 33;

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

2. Ensuring that small, minority, and women’s businesses are solicited whenever they are potential sources;

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

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

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

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

(K) Debarment/Suspension. The recipient agrees to *[deny participation in services, supplies or equipment to be procured for this project to any debarred or suspended firms or affiliates in accordance with Executive Order 12549]* **follow 2 CFR part 180 subpart C and 2 CFR 200.213.** The recipient acknowledges that doing business with any party listed on the List of Debarred, Suspended or Voluntarily Excluded Persons may result in disallowance of project costs under the assistance agreement;

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

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

(N) *[Buy American Provision. For ARRA funded projects, the specifications must include the following statement or a similar statement in accordance with federal guidance: “All iron, steel, and manufactured goods used in this project must be produced in the United States unless a) a waiver is provided to the owner by the Environmental Protection Agency or b) compliance would be inconsistent with United States obligations under international agreements.”]* **American Iron and Steel. Specifications shall adhere to requirements under 33 U.S.C. 1388 for projects involving the construction, alteration, maintenance, or repair of a treatment works.**

[[19]](18) Construction Equipment and Supplies Procurement. This section describes the minimum procurement requirements which the recipient must use under the CWSRF program. **The recipient must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.**

(A) Small Purchases. A small purchase is the procurement of materials, supplies, and services when the aggregate amount involved in any one (1) transaction does not exceed one hundred **fifty thousand dollars [(\$100,000)] (\$150,000)**. The small purchase limitation of one hundred **fifty thousand dollars [(\$100,000)] (\$150,000)** applies to the aggregate total of an order, including all estimated handling and freight charges, overhead, and profit to be paid under the order. In arriving at the aggregate amount involved in any one (1) transaction, all items which should properly be grouped together must be included. Department *[approval]* **concurrence** and a minimum of three (3) quotes must be obtained prior to purchase.

(B) Bidding Requirements. This subsection applies to procurement

of construction equipment, supplies, and construction services in excess of one hundred **fifty** thousand dollars *[(\$ 100,000)]* **(\$150,000)** awarded by the recipient for any project. No contract shall be awarded until the department has approved the formal advertising and bidding.

1. Formal advertising.

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

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

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

A. A complete statement of the work to be performed or equipment to be supplied and the required completion schedule;

B. The terms and conditions of the contract to be awarded;

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

D. Responsibility requirements and criteria which will be employed in evaluating bidders;

E. The recipient shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening;

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

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

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

I. The recipient may reserve the right to reject all bids. Unless all bids are rejected for good cause, [A]award shall be to the lowest, responsive, responsible bidder.

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

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

(III) If the recipient intends to make the award to a firm which did not submit the lowest bid, the recipient shall prepare a written statement before any award, explaining why each lower bidder was deemed non-responsive or nonresponsive and shall retain

the statements in its files.

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

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

[K.JJ. Departmental concurrence with contract award must be obtained prior to actual contract award. Recipients shall notify the department in writing of each proposed construction contract which has an aggregate value over the one hundred fifty thousand dollars [(\$ 100,000)] **(\$150,000)**. The recipient shall notify the department within ten (10) calendar days after the bid opening for each construction sub agreement. The notice shall include:

(I) Proof of advertising;

(II) Tabulation of bids;

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

(IV) Recommendation of award;

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

(VI) Copy of the bid bond or bid guarantee;

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

(VIII) Suspension/Debarment Certification;

(IX) Certification that the recipient has the necessary funds to complete the project if bids exceed available *[loan]* CWSRF funding;

(X) MBE/WBE Worksheet;

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

(XII) Site certification, if not previously submitted~~./.~~; **and**

(XIII) Certification of Non-segregated Facilities.

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

(A) Unit Prices.

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

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

(B) A lump sum to be negotiated; and

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

[(21)](20) Progress Payments to Contractors.

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

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

A. Payments for work in place; and

B. Payments for materials or equipment which have been delivered to the construction site or which are stockpiled in the vicinity of the construction site in accordance with the terms of the contract, when conditional or final acceptance is made by or for the

recipient. The recipient shall assure that items for which progress payments have been made are adequately insured and are protected through appropriate security measures.

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

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

[(22)](21) Classification of Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under programs supported by this regulation **and 40 CFR part 35 subpart I, including Appendix A.**

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

1. Reasonable and cost effective;
2. Necessary for the construction of an operable wastewater facility **and other projects, as defined in the Federal Water Pollution Control Act as amended**, including required mitigation; and
3. Meet the eligibility limitations of the Federal Water Pollution Control Act as amended.

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

1. Engineering services and other services incurred in planning and in preparing the design drawings and specifications for the project. *[These services and their related expenses can be reimbursed based on actual invoices to be submitted after loan closing.]* For invoice reimbursement, the department must have a copy of the executed engineering contract for planning and design of the project;

2. The cost *[of subagreements]* **incurred pursuant to a contract** for building those portions of the project which are for treatment of wastewater, correction of I/I, or for new interceptor sewers. **These costs include change orders within the allowable scope of the project and the costs of meritorious contractor claims for increased costs under sub agreements;**

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

- A. Office engineering;
- B. Construction surveillance;
- C. Stakeout surveying;
- D. As-built drawings;
- E. Special soils/materials testing;
- F. Operation and maintenance manual;

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

- H. User charge and sewer[-] use ordinance; and
- I. Plan of operation;

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

biosolids, final grading, and seeding of the site;

15. Change orders and the costs of meritorious contractor claims for increased costs under sub agreements:

A. Within the allowable scope of the project;
B. Costs of equitable adjustments due to differing site conditions; and

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

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

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

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

[9.]5. Equipment, materials, and supplies.

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

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

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

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

- (I) Portable standby generators;
- (II) Large portable emergency pumps to provide pump-around capability in the event of pump station failure or pipeline breaks; **and**
- (III) Trailers and other vehicles having as their purpose the transportation, application, or both, of liquid or dewatered sludge or septage; *[and]*

[(IV)]E. The cost of a reasonable inventory of [R/]replacement parts identified and approved in advance for new wastewater treatment facilities;

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

11.]6. Land or easements [when used as an integral part of the treatment process] required to complete the project. In order to be eligible for reimbursement, [L/]land must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91- 646, as amended. Certification by the recipient of compliance under this Act is required;

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

13.]8. Purchase of a private wastewater system, provided the project will eliminate or upgrade the existing facilities. The purchase of a private wastewater system must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91- 646, as amended. Certification by the recipient of compliance under this Act is required;

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

15.]9. The cost of preparing [an] environmental [impact

statement if) documentation required under 10 CSR 20-4.050;

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

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

[18.]12. Debt service reserve deposits;

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

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

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

[20.]14. Correction of combined sewer overflows;

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

[22.]16. Storm water transport and treatment systems, and nonpoint source best management practices[.];

17. Third party costs, incurred under a contract, associated with preparing a fiscal sustainability plan;

18. Energy conservation projects that reduce energy consumption including energy efficient equipment and certain renewable energy facilities;

19. Water conservation projects that reduce demand for publicly-owned water treatment works including water meters, water efficient appliances, education programs, and incentive programs; and

20. Planning and assessments activities including asset management plans, capital improvement plans, integrated planning, long term control plans, water or energy audits, treatment works security and safety plans, or environmental management systems.

(C) Non-eligible costs include, but are not limited to:

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

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

[3.]1. Costs [allowable] for the purposes in paragraphs [(22)(B)11.] (21)(B)6. and (21)(B)8. that are in excess of just compensation based on the appraised value or amount determined in condemnation;

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

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

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

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

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

[9.]7. Costs outside the scope of the approved project;

[10.]8. Costs for which grant or loan payments have been or will be received from another state or federal agency; and

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

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

[(23)](22) Operation and Maintenance.

(A) Operation and Maintenance Manual. The recipient must make provision satisfactory to the department for assuring effective opera-

tion and maintenance of the constructed project throughout its design life. If required by the department, recipients of assistance for construction of mechanical facilities must develop an operation and maintenance manual. The operation and maintenance manual, if required, must be submitted by eighty percent (80%) construction completion.

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

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

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

[(A) Construction-Related Activities.] The recipient must retain all [financial, technical, and administrative] records [related to the planning, design, and construction of the project for a minimum period of four (4) years following receipt of the final construction payment from the associated financial assistance or the recipient's acceptance of construction, whichever is later. Records shall be available to state, federal officials, or both, for audit purposes during normal business hours during that period.] according to the retention schedules established by chapter 109, RSMo. A longer retention period may be required under the loan documentation.

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

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

(A) This conflict would arise when—

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

2. An organization which may receive or has been awarded a sub agreement employs, or is about to employ, any person under paragraph [(25)] (24)(A)1.

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

(25) Disposition of Treatment Works. The recipient must receive the written consent of the department prior to the disposal of the wastewater treatment works or any material part thereof financed or refinanced with the proceeds of a loan.

(A) If at any time during the term of the loan a recipient desires to sell, lease, mortgage, or otherwise dispose of the wastewater treatment works or any part thereof, the recipient shall abide by the provisions for disposal as contained in the recipient's loan documentation between the recipient and the department. Disposition of treatment works to entities not listed in subsection (7)(A) of this rule will require immediate repayment of assistance.

(B) Once loan repayment is complete, ownership of facilities, equipment, and real property purchased under the program with a current value in excess of five thousand dollars (\$5,000) may be transferred only with written permission of the department.

(C) If at any time within thirty (30) years after initiation of operations of the project, the wastewater treatment works funded with a CWSRF grant, or any part thereof, is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a thirty (30) year straight-line depreciation based on the original costs of the facilities being sold and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership.

(26) Procurement of Design-Build Services. The procurement of design-build services shall be in accordance with section 67.5060, RSMo. Recipients that are exempt from section 67.5060, RSMo, may also utilize design-build services if local ordinances or policies allow design-build and the procurement of the design-build team considers both the qualifications of the team and the project selected meets the cost effectiveness requirements of subsection 10(B). Recipients seeking funds for a project utilizing design-build services must notify the department with the recipient's CWSRF application. Recipients that utilize design-build services shall coordinate procurement activities with the department to ensure compliance with CWSRF requirements. The department may restrict the amount of funding available for projects using design-build services, if needed to comply with federal law and regulations.

(27) Plan of Study. Facility planning loans, not to exceed a five (5) year repayment term, or grants may be provided by the commission to applicants with an existing publicly owned wastewater system. Applicants that desire to receive a loan for facility planning must submit a plan of study. The plan of study should include the following information (generally in fifteen pages or less):

(A) Maps of the planning area showing boundaries, political jurisdictions, river basins and surface water bodies, and service areas of existing wastewater treatment facilities; NPDES permits; the existing population; a brief description of existing wastewater facilities; and the communities and major industries served;

(B) The agencies and jurisdictions involved in the planning. Include any joint resolutions or agreements among jurisdictions that designate a lead agency or official to serve as applicant;

(C) The nature and scope of planning, including a description of the need for the project, and facilities planning tasks and schedule; and,

(D) An itemized description of costs to complete tasks and an estimate of total cost for the facility plan.

(28) Fiscal Sustainability Plan. A fiscal sustainability plan as established in section 603(d)(1)(E) of the Federal Water Pollution Control Act, shall be prepared by the recipient receiving a loan for a treatment works repair, replacement, or expansion. For purposes of this paragraph "loan" does not include an agreement where the department is purchasing an obligation (e.g. municipal bonds) from the recipient.

(29) Intended Use Plan

(A) The priority point criteria will be published in draft form annually and be adopted by the commission after a public comment period has been conducted. The adopted priority point criteria will be published on the department's website.

(B) Priority Lists. Each year, following a public hearing, the commission shall establish priority lists for using future anticipated state and federal funding allocations. These lists shall contain at a minimum several parts, as described in subsections (B)1. through (B)4. of this rule. These lists shall become effective annually with the adoption of the Intended Use Plan. However, the commission may bypass projects on these lists for failure to proceed to grant award or loan closing in an expeditious manner.

1. Fundable List. The commission may establish one or more fundable priority lists which identify those projects which meet the readiness to proceed criteria. The commission may specify fund allocations across multiple fundable priority lists in order to distribute available funds statewide and meet CWSRF program goals. Projects will be listed in priority point order within each fundable list.

2. Fundable Contingency Priority List. The fundable contingency priority list identifies those projects meeting the readiness to proceed criteria, however, there are insufficient available funds. Projects will be listed in priority point order regardless of the date which the readiness to proceed criteria are met.

3. Contingency Priority List. The contingency priority list identifies those projects which may be considered for funding during a given fiscal year if the applicant secures an acceptable debt instrument. Projects will not be considered for the contingency priority list unless a complete facility plan has been submitted for review.

4. Planning List. The planning list identifies all potentially eligible grant or loan projects not contained on a fundable or contingency priority list. Planning list projects may advance to the contingency or fundable lists, with commission approval, upon meeting the readiness to proceed criteria.

(C) Modifications. After the commission adopts the Intended Use Plan, it may modify the priority lists or redistribute the available funds in accordance with subsections (C)1. through (C)4. of this rule. The commission may only take this action after providing notice to those projects directly affected.

1. Inadequate Allocations. If the actual funding is less than the allocations anticipated by the commission in the development of the Intended Use Plan, or if previous allocations are reduced, the commission may find it necessary to reduce their commitments to projects on the fundable lists. The commission may take formal action to reduce the number of commitments in accordance with paragraphs (C)1.A. through (C)1.C. of this rule.

A. The commission may reduce the amount of funds allocated to each purpose as shown in the Intended Use Plan.

B. The commission may remove the lowest priority projects from the fundable priority lists, placing these projects on the appropriate contingency priority list in a position dictated by their priority relative to others on that contingency priority list.

C. The commission may bypass projects on the fundable priority lists in accordance with subsection (C)3. of this rule.

2. Unanticipated and Uncommitted Funds. If unanticipated or uncommitted funds become available, the commission may take formal action to distribute them in accordance with paragraphs (C)2.A. through (C)2.C. of this rule.

A. The commission may use the unanticipated or uncommitted funds to move the highest priority project(s) from contingency priority list to the proper fundable priority list.

B. The commission may use the unanticipated or uncommitted funds to increase the amount of funds allocated to the various purposes as shown in the Intended Use Plan.

C. The commission may use the unanticipated or uncommitted funds to increase the amount of funds allocated to projects on the fundable priority list or to provide increased assistance to projects which have already received assistance.

3. Project Bypass. The commission may bypass any project on the fundable priority list which is not, in the commission's opinion, making satisfactory progress in satisfying requirements for assistance. Bypassed projects will be removed from the fundable priority list and placed on the proper contingency priority or planning list in a position dictated by the commission. In determining whether a project is making satisfactory progress in satisfying the requirements for assistance, the commission shall use the criteria contained in paragraphs (C)3.A. through (C)3.C. of this rule. The commission may reinstate any bypassed projects on the fundable priority lists after first giving notice to applicants for those projects on the contingency lists of the commission's

intent to reinstate bypassed projects. Funds released through project bypass will be considered uncommitted and available for distribution in accordance with subsection (C)2. of this rule.

A. Any project on the fundable lists may be bypassed if the applicant fails to submit all documents required for assistance at least sixty (60) days prior to the quarter for which assistance is anticipated.

B. The commission may use individual project schedules developed by the department to determine whether a project on the current fundable list is making satisfactory progress at those times during the fiscal year.

C. Carryover projects may be automatically bypassed if they do not have all documents required for assistance submitted three (3) months before the end of the federal fiscal year in which their application expires.

4. Project Removal. The department will remove projects from the contingency, fundable, or planning lists if they meet any one (1) of the criteria stated in paragraphs (C)4.A. through (C)4.E. of this rule.

A. The department will remove a project if it has received one (1) or more funding commitments necessary to cover the estimated project cost or has been fully funded by other funding sources.

B. The department will remove a project if it is determined to be ineligible for funding.

C. The department will remove projects from these lists if directed by commission action under subsections (C)1. or (C)3. of this rule.

D. The department will remove projects from these lists if directed to do so by the Environmental Protection Agency in accordance with federal law.

E. The department will remove a project from these lists at the request of the applicant.

AUTHORITY: sections 644.026 [and], 644.101, and 644.121, [RSMo 2000 and section 644.101,] RSMo [Supp. 2009] 2016. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for the Clean Water Commission to be held at 10 a.m. on August 15, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring/Roaring River Conference Rooms, 1730, East Elm Street, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

10 CSR 20-4.041 Direct Loan Program. The department is replacing “state revolving fund” with “Clean Water State Revolving Fund”

in the purpose statement; rewording and amending to reference new amendment of 10 CSR 20-4.040 in section (1); adding “Clean Water” to “State Revolving Fund” and adding “CW” to “SRF” in two sections of (2), and adding “or other funds” to indicate funding of direct loans; amending section (3) and adding “Clean Water” to “State Revolving Fund”, adding provisions from 10 CSR 20-4.040 that do not apply to direct loans to clarify the language, removal of eligibilities and proposals to Missouri Water and Wastewater Review Committee; removal of content and addition of reference to 10 CSR 20-4.040 will be followed and application process of direct loan in section (4); removal of (A) and (B) in section (5) with the addition of the use of target interest rate (TIR) under section (4) of 10 CSR 20-4.040; removal of “Construction Loans” and (A)–(C), renumbering of (D) to (A) with rewording and removal of construction reference, changing reference due to amendment, and numbering of (E) to (B); removal of (A) 1.–4., (B) in (7) and reference to population, amending of (A) with changes to reference in this rule and addition of escrow agreement statement, addition of (A)–(D); removal of rule (8); renumbering (9) to (8) in two (2) areas of this rule along with amending rule, amending (A) of this section with the addition of 1.–3. explaining amortization schedules, amending (B) and (C) of this section, and removing (E) of this section; renumbering (10) to (9) and amending rule along with the addition of clarifying loan fees; renumbering (11) to (10) with amendment to reference 10 CSR 20-4.040 (6); renumbering (12) to (11) with the addition of EIERA for the authority to make specific refinements.

PURPOSE: The amendment revises the purpose of the rule, removes inconsistencies between this rule and 10 CSR 20-4.040, clarifies provisions of 10 CSR 20-4.040, and incorporates requirements from the Federal Water Pollution Control Act.

PURPOSE: This rule sets forth the requirements for implementation of direct loan programs to be financed through the Clean Water [s]State [r]Revolving [f]Fund program contained in 10 CSR 20-4.040 or the State Direct Loan Program.

(1) General. The department may make direct loans by purchasing the general obligation bonds, revenue bonds, short-term notes, or other acceptable obligation of any qualified applicant for the planning, design and/or construction of an eligible project. These loans shall not exceed the total eligible project costs as described in 10 CSR 20-4.040[(23)](21) less any amounts financed by [any] other means [other than through the applicable direct loan program].

(2) Clean Water State Revolving Fund (CWSRF) Direct Loans. Funding for these loans is from CWSRF loan repayments [or], federal capitalization grants, or other funds. The provisions and requirements of the Clean Water State Revolving Fund General Assistance Regulation, 10 CSR 20-4.040, apply to loans awarded under this regulation.

(3) State Direct Loan Program. Funding for these loans is from state bond funds and loan repayments. The provisions and requirements of the Clean Water State Revolving Fund General Assistance Regulation, 10 CSR 20-4.040, apply to loans awarded under this regulation unless specifically provided for herein. [In addition to those eligible items specified in 10 CSR 20-4.040, loans made under this program may incorporate as an eligible project cost: easements, rights-of-way and land acquisition integral to the project. Eligibility shall be limited to fair market value. Applicants must have submitted a preliminary project proposal to the Missouri Water and Wastewater Review Committee (MWWRC) and received an invitation from the MWWRC to apply for financial assistance.] The following provisions of 10 CSR 20-4.040 do not apply:

(A) 10 CSR 20-4.040(3) except for (A)2.;

- (B) 10 CSR 20-4.040(7);
- (C) 10 CSR 20-4.040(9)(A)3.;
- (D) 10 CSR 20-4.040(9)(B);
- (E) 10 CSR 20-4.040(11)(B)2.;
- (F) 10 CSR 20-4.040(14);
- (G) 10 CSR 20-4.040(17)(I);
- (H) 10 CSR 20-4.040(17)(J);
- (I) 10 CSR 20-4.040(17)(N);
- (J) 10 CSR 20-4.040(18)(B)2.K.(XIII);
- (K) 10 CSR 20-4.040(28); and
- (L) 10 CSR 20-4.040(29).

(4) *[Letter of Intent. The department may issue a letter of intent to make a direct loan when the application documents are approved and the commission approves the project for receipt of loan funds. The letter of intent shall state the amount of funds reserved for the project, the requirements to qualify for receipt of loan funds and the schedule for the applicant to meet all requirements. The department may terminate this letter of intent for failure to meet the schedule requirements or conditions of the letter of intent. The amount of assistance stated in the letter of intent may be adjusted to reflect actual costs, subject to commission approval and the availability of funds.] Funding Allocation.*

(A) **CWSRF Direct Loans.** The department will follow 10 CSR 20-4.040.

(B) **State Direct Loans.** After receiving applications and the department determines that the application is complete and eligible, the department will take the application before the Clean Water Commission for allocation of funding.

(5) **Interest Rates.**

[(A) The interest rate charged by the department on direct loans shall be equal to the target interest rate calculated] The department will use the target interest rate (TIR) policy as established by the commission under section (4) of 10 CSR 20-4.040. [Interest on construction loans will begin accruing on the last day of the month in which a construction advance is made and will be compounded at the end of each month after that until such time as the construction loan along with all interest accrued is paid in full.]

[(B) Direct loans provided as a match to the Hardship Grant Program as provided for in 10 CSR 20-4.043 shall have a zero percent (0%) interest rate.]

(6) **[Construction Loans] Reimbursement Terms.**

[(A) The department may award construction loans to qualified applicants in order to provide interim financing during construction of their project. Construction loans may contain clauses and provisions determined by the department to be necessary to protect the interests of the state.

[(B) With exception of substate revolving funds, the construction loan will remain in force throughout the construction period. However, it must be paid in full no later than six (6) months following the initiation of operation of the facility constructed by the project or the closing deadline provided in the construction loan agreement, whichever is earlier.

[(C) If the department is to provide long term financing under this rule, then the construction loan must contain an agreement by the department and the recipient that the department will purchase the recipient's general obligation, revenue bonds or other acceptable debt obligation after construction is completed. If a construction loan is awarded, the permanent financing amount will be limited in amount to the sum of the payments drawn from the construction loan for eligible project costs plus interest accrued on the construction loan plus the reasonable costs of issuance which can be financed under Missouri statutes.]

[(D)](A) [Unless specifically addressed in the loan documents, the recipient may request construction loan payments no more often than monthly.] The maximum [construction advance shall] reimbursement will be no more than the sum of all eligible costs incurred to date. Each payment request shall include the information listed in the following paragraphs [(4)(D)](6)(A)1.-3. and other information deemed necessary by the department to insure proper project management and expenditure of public funds:

1. Completed reimbursement request form;
2. Construction pay estimates signed by the construction contractor, the recipient, and the *[resident inspector] consulting engineer*, if applicable; and
3. Invoices for other eligible services, equipment, and supplies for the project.

[(E)](B) If the department is satisfied that the payment request accurately reflects the eligible cost incurred to date on the project, the department will request that [a] state payment [check] be issued to the recipient.

(7) **Trustee or Paying Agent.**

[(A)] The department may require the recipient to contract with a trustee or paying agent to provide [all or part of] the services listed in [the following paragraphs] subsections (7)(A)[1.-4.]-[D] of this rule. The department may require recipients of less than thirty thousand (30,000) service area population to use the services of the trustee, to—], along with other such services as detailed in the participant's escrow agreement.

[1. Make joint assistance payments to the recipients and their contractors;

2. Ensure that payments are only released to those recipients whose contractors have a project contract approved by the department;

3. Ensure that none of the recipient's contractors receive more in assistance payments than approved by the department; and

4. Maintain financial records of credits and debits for the construction project.

[(B) If a SRF or state direct loan is matched with a grant awarded under 10 CSR 20- 4.023, the maximum loan amount will be calculated as follows: grant amount divided by four-tenths (.4) less the grant amount plus approved costs of issuance and capitalized interest, as appropriate.]

(A) Maintain separate trust funds and accounts for recipients;

(B) Disburse funds to recipients;

(C) Collect principal and interest quarterly payments from recipients; and

(D) Provide monthly financial reports to recipients.

[(8) Purchase of Obligations. The department shall purchase revenue bonds, general obligation bonds or other acceptable debt obligations from the recipient no later than six (6) months following initiation of operation of the facilities constructed by the project or by the closing deadline contained in the construction loan agreement, whichever is earlier. In addition to the requirements of this rule, the department may require the recipient to include those assurances and clauses in the loan agreements and bond resolutions as deemed necessary to protect the interest of the state.]

[(9)](8) Amortization Schedules. The guidelines contained in the following subsections [(9)](8)(A)-(E) are to be used to establish amortization schedules [for obligations purchased] under this rule:

(A) For recipients of a state direct loan, [T]the bonds, notes, or other [debt] obligations shall be fully amortized [in no more than twenty (20)] for a period not longer than thirty (30) years after initiation of operation[.];. For CWSRF direct loan recipients, the bonds, notes, or other obligations shall be fully amortized for a period not longer than the earlier of:

1. Thirty (30) years after initiation of operation;
2. The economic useful life of the project; or
3. Such other period of time that the department determines is appropriate and in the best interest of the CWSRF program.

(B) The principal payment frequency [on any debt obligations] shall be no less than annual [with the first payment no later than one (1) year after the initiation of operation] and at least semi-annual for interest payments;

(C) The amortization schedule may either be straight-line or declining schedules for the term of the [debt] obligation. The department may approve an alternative amortization method if deemed appropriate;

(D) Repayment of principal shall begin not later than one (1) year after initiation of operation; and].

[(E) If at any time during the loan period the facility(ies) financed under this rule is sold, either outright or on contract for deed, to another than a political subdivision of the state, the loan becomes due and payable upon transfer.]

[[10]](9) Loan Fees. The department may charge annual loan fees not to exceed one-half percent (.5%) [of the outstanding loan balance of each loan. Those fees are intended to reimburse the department for the cost of loan origination, loan servicing and administration of the program.] for state direct loans. CWSRF direct loan recipients will be charged a fee on the loan in accordance with 10 CSR 20-4.040(5).

[[11]](10) Additional Administrative Fees Allowed. Additional administrative fees may be assessed by the department at the time the administration fee is calculated [for failure by a recipient to submit approved documents to the department (for example, operation and maintenance manuals, plan of operation, enacted user charge and sewer use ordinances and executed contract documents) in accordance with the time frames provided under the program agreement entered into by the recipient. The additional fee will be an additional one-tenth percent (.1%) per month that the document remains delinquent. The additional fee will be collected only during the year in which the document is not submitted] in accordance with 10 CSR 20-4.040(6).

[[12]](11) Variations of Structure Permitted. This rule sets out the general format for the direct loan programs. The commission, EIARA, and the department shall have the authority to make specific refinements, variations, or additional requirements as may be necessary or desirable in connection with the efficient operation of the direct loan program.

AUTHORITY: sections 644.026 and 644.122, RSMo [Supp. 1998] 2016. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for the Clean Water

Commission to be held at 10 a.m. on August 15, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring/Roaring River Conference Rooms, 1730, East Elm Street, Jefferson City, MO 65101.

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

PROPOSED RESCISSION

10 CSR 20-4.042 Leveraged Loan Program. This rule set forth the requirements for implementation of a leveraged loan program to be financed through a combination of the Water and Wastewater Loan Fund or the Wastewater Revolving Loan Fund administered by the commission and funds made available from the proceeds of revenue bonds issued by the Environmental Improvement and Energy Resources Authority or the recipient. The leveraged loan program was designed to provide low interest loans to recipients to finance the planning, design and construction of wastewater treatment facilities.

PURPOSE: The purpose of this rescission is to rescind the Leveraged Loan Program which is no longer utilized. The rule supported a historic financial structure of the CWSRF program and the leveraged loans are no longer awarded nor are they anticipated in foreseeable future.

AUTHORITY: section 644.026, RSMo Supp. 1993. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. For intervening history, please consult the Code of State Regulations. Rescinded: Filed June 13, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for the Clean Water Commission to be held at 10 a.m. on August 15, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring/Roaring River Conference Rooms, 1730 East Elm Street, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

10 CSR 20-4.050 Environmental Review. The department is restructuring the order and titles of the sections within this rule to be consistent with 60-13.030 (Environmental Review for Drinking Water); amending the purpose of the rule; amending section (1) with minor grammatical corrections; amending and renumbering section (1)(A) for clarification and to include a new criteria, (2)(A)1.C., which allows categorical exclusions for structures located within previously disturbed rights-of-way; moving (1)(B) to new section (6);

amending and renumbering sections (1)(C) (2) and (3) to replace the term “applicant with “recipient,” delete the requirement for recipients to submit three copies of information, clarify the contents of an Environmental Information Document, remove the requirement for a recipient to obtain a verbatim transcript of public meetings and remove the requirement for recipients to publish environmental determinations in a local newspaper; and adding a new section (7) to allow the department to accept environmental reviews from other agencies.

PURPOSE: The amendment includes new language for the purpose statement, updates the current language that establishes the requirements for an environmental review, and removes duplicative language.

[PURPOSE: As required by the provisions of Section 602(b)(6) of the Federal Clean Water Act, the department will conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the State Revolving Fund. This rule establishes the procedures for these environmental reviews.

Editor’s Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.]

PURPOSE: This rule establishes procedures and requirements for environmental reviews for assistance from the Clean Water State Revolving Fund program.

(1) General. The **purpose of the** environmental review *[will]* is to ensure that the project will comply with *[the]* applicable local, state, and federal laws and *[commission]* rules relating to the protection and enhancement of the environment. Based upon the staff’s review, the director *[of staff]* will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of the provision of financial assistance for *[building and]* construction. *[n]*No financial assistance will be provided until a final environmental determination has been made. Nothing in *[these]* **this rule[s]** shall prohibit any public, private, or governmental party from seeking administrative or legal relief from the determinations of the director *[of staff]*.

[(A)](2) Basic Environmental Determinations. There are three (3) basic environmental determinations that will apply to projects proposed to be implemented with assistance from the fund. *[These are a determination to categorically exclude a project from a formal environmental review, a finding of no significant impact/environmental assessment (FNSI/EA) based upon a formal environmental review and a determination to provide or not provide financial assistance based upon a record of decision (ROD) following the preparation of an environmental impact statement (EIS). The appropriate determination will be based on the following criteria:]*

[1.](A) **Categorical Exclusion.** The categorical exclusion (CE) determination applies to categories of projects that have been shown over time not to entail significant impacts on the quality of the human environment.

[A.]1. Projects which meet *[either]* **any** of the following criteria may be categorically excluded from formal environmental review requirements:

[(I)]A. The project is directed solely toward minor rehabilita-

tion of existing facilities, functional replacement of equipment, or toward the construction of related facilities adjoining the existing facilities that do not affect the degree of treatment or the capacity of the works. Examples include infiltration and inflow correction, rehabilitation of existing equipment and structures, and the construction of small structures on existing sites; *[and]*

[(III)]B. The project is in a community of less than ten thousand (10,000) population and is for minor expansions or upgrading of existing treatment works or on-site disposal systems are proposed*[/];* or

C. New underground sewer lines or conveyance structures located entirely in existing rights-of-way that have been previously disturbed and supported by appropriate documentation to verify rights-of-way location(s) and type(s) of previous disturbance.

[B.]2. CEs will not be granted for projects that entail—

[(I)]A. The construction of new collection lines **located outside existing rights-of-way;**

[(III)]B. A new discharge or relocation of an existing discharge;

[(III)]C. An increase of more than thirty percent (30%) in the volume or loading of pollutants;

[(IV)]D. Provision of a capacity for a population thirty percent (30%) or greater than the existing population;

[(V)]E. Known or expected impacts to cultural resources, threatened or endangered species, or other environmentally sensitive areas; and

[(VI)]F. The construction of facilities that are known or expected to be not cost-effective or are likely to cause significant public controversy*[/];*

[2.](B) **Finding of No Significant Impact/Environmental Assessment (FNSI/EA).** The FNSI/EA will be based upon an environmental review by the staff supported by an environmental information document (EID) prepared by the *[applicant]* recipient in conformance with guidance developed by the *[commission]* department. If a FNSI/EA is not appropriate, a public notice noting the preparation of an **environmental impact statement (EIS)** will be required. The director’s *[of staff’s]* issuance of a FNSI/EA will be based upon documentation that the potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures*[/ and]*.

[3.](C) **Record of Decision The Record of Decision (ROD)** may only be based upon an EIS in conformance with the format and guidelines described in subsection *[(2)](4)(C)*. An EIS will be required when the director of staff determines any of the following:

[A.]1. The project **will** significantly *[will]* affect the pattern and type of land use or growth and distribution of the population;

[B.]2. The effects resulting from any structure or facility constructed or operated under the proposed action may conflict with local or state land use plans or policies;

[C.]3. The project may have significant adverse impacts upon—

[(I)]A. Wetlands;

[(III)]B. Floodplains;

[(III)]C. Threatened and endangered species or their habitats;

[(IV)]D. Cultural resources including park lands, preserves, other public lands, or recognized scenic, recreational, *[prime farmlands,]* archeological, or historic value; and

[(V)]E. Prime farmland;

[D.]4. The project will displace populations or significantly alter the characteristics of existing residential areas; and

[E.]5. The project directly or indirectly (for example, through induced development) may have significant adverse effect upon local ambient air quality, local noise levels, surface and groundwater quantity or quality, fish, shellfish, wildlife, or their natural habitats.

[(B) **Other Determinations That Are Required of the Director of Staff.**

1. Recognizing that a project may be altered at some time after an environmental determination on the project has been issued, the director of staff will provide that, prior to

approval, the plans and specifications, loan application and related documents will be examined for consistency with the environmental determination. If inconsistencies are found, the director of staff may revoke a CE and require the preparation of an FNSI/EA or an EIS, consistent with the criteria of subsection (1)(A) of this rule, or require the preparation of amendments to an FNSI/EA or supplements to an EIS, as appropriate. Based upon the staff's review of the amended project, the director of staff will—

A. Reaffirm the original environmental determination through the issuance of a public notice or statement of finding;

B. Issue a FNSI for a project for which a CE has been revoked or issue a public notice that the preparation of an EIS will be required;

C. Issue an amendment to a FNSI/EA or revoke a FNSI and issue a public notice that the preparation of an EIS will be required; or

D. Issue a supplement to a ROD or revoke a ROD and issue a public notice that financial assistance will not be provided.

2. When five (5) or more years have elapsed between the last environmental determination and the submittal of an application to the fund, the director of staff will reevaluate the project, environmental conditions and public views and, prior to approval of the application, proceed in accordance with subsection (3)(A).]

[(C) Other Determinations That Are Available to the Commission.]

(3) Construction Prior to Environmental Review.

1.(A) [An applicant] A recipient may request advance authority to construct part of the proposed [wastewater treatment] project prior to completion of the necessary environmental review when the part of the project will—

A.1. Remedy a severe public health, water quality or environmental problem immediately;

B.2. Not preclude any reasonable alternatives identified for the complete system;

C.3. Not cause significant direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire project; and

D.4. Not be highly controversial.

2.(B) Based upon the review of the information required by section [(2)] (4) of this rule, the director [of staff] will issue a FNSI/EA so conditioned as to prohibit construction of the remainder of the project until a complete environmental review has been performed and a subsequent environmental determination has been issued.

[(2)](4) Environmental Information Required [by the Commission. A minimum of three (3) copies of all information required in this section shall be submitted to the commission] for Environmental Review.

(A) [Applicants] Recipients seeking a CE will provide the director [of staff] with sufficient documentation to demonstrate compliance with the criteria of subsection [(1)](2)(A). At a minimum, this will consist of a—

1. Brief, complete description of the proposed project and its costs;

2. Statement indicating that the project is cost-effective and that the [applicant] recipient is financially capable of constructing, operating, and maintaining the facilities; and

3. Plan map(s) of the proposed project showing—

A. The location of all construction areas;

B. The planning area boundaries; and

C. Any known environmentally sensitive areas.

(B) An EID must be submitted by those [applicants] recipients whose proposed projects do not meet the criteria for a CE and for

which the director [of staff] has made a preliminary determination that an EIS will not be required. The director [of staff] will provide guidance on both the format and contents of the EID to potential [applicants] recipients prior to initiation of facilities planning.

1. At a minimum, the contents of an EID will include:

A. The purpose and need for the project;

B. Information describing [T]he current environmental setting of the project and the future [of the] environmental setting without the project;

C. The alternatives to the project as proposed;

D. A description of the proposed project;

E. The potential environmental impacts of the project as proposed including those which cannot be avoided;

F. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity;

G. Any irreversible and irretrievable commitments of resources to the proposed project;

H. Proposed mitigation measures to minimize the environmental impacts of the project;

[H.1. A description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and

[I.2. Documentation of coordination with appropriate governmental agencies.

2. Prior to the [applicant's] recipient's adoption of the facilities plan, the [applicant] recipient will hold a public meeting or hearing on the proposed project and the EID, and provide the director [of staff] with a [verbatim transcript] complete record of the meeting or hearing. [The director of staff will provide guidance to the applicant regarding the contents of the hearing notice and of the hearing.] The meeting or hearing will be advertised at least thirty (30) days in advance in a local newspaper of general circulation. [Concurrent with the advertisement, a notice of the public hearing and availability of the documents will be sent to all local, state and federal agencies and public and private parties that may have an interest in the proposed project.] Included with the [transcript] meeting record will be a list of all attendees with addresses, any written testimony and the [applicant's] recipient's responses to the issues raised.

3. The department will provide copies of the FNSI/EA to all federal, state and local agencies and others with an interest in the project.]

(C) The format of an EIS will encourage sound analyses and clear presentation of alternatives, including the no-action alternative and the selected alternative and their environmental, economic, and social impacts. The following format must be followed by the [applicant] recipient unless the director [of staff] determines there are compelling reasons to do otherwise:

1. A cover sheet identifying the [applicant] recipient, the project(s), the program through which financial assistance is requested and the date of publication;

2. An executive summary consisting of a five to fifteen (5-15) page summary of the critical issues of the EIS in sufficient detail that the reader may become familiar with the proposed project and its cumulative effects. The summary will include:

A. A description of the existing problem;

B. A description of each alternative;

C. A listing of each alternative's potential environmental impacts, mitigative measures, and any areas of controversy; and

D. Any major conclusions;

3. The body of the EIS which will contain the following information:

A. A complete and clear description of the purpose and need for the proposed project that clearly identifies its goals and objectives;

B. A balanced description of each alternative considered by the [applicant] recipient. The descriptions will include the size and

location of the facilities and pipelines, land requirements, operation and maintenance requirements, and construction schedules. The alternative of no action will be discussed and the *[applicant's]* recipient's preferred alternative(s) will be identified. Alternatives that were eliminated from detailed examination will be presented with the reasons for their elimination;

C. A description of the alternatives available to the *[commission]* department including:

(I) Providing financial assistance to the proposed project;

(II) Requiring that the proposed project be modified prior to providing financial assistance to reduce adverse environmental impacts or providing assistance with conditions requiring the implementation of mitigative measures; and

(III) Not providing financial assistance;

D. A description of the alternatives available to other local, state, and federal agencies which may have the ability to issue or deny a permit, provide financial assistance or otherwise affect or have an interest in any of the alternatives;

E. A description of the affected environment and environmental consequences of each alternative including secondary and cumulative impacts. The affected environment on which the evaluation of each alternative will be based includes, as a partial listing, hydrology, geology, air quality, noise, biology, socioeconomics, land use, and cultural resources of the facilities planning area. The department will provide guidance, as necessary, to the *[applicant]* recipient regarding the evaluation of the affected environment. The discussion will present the total impacts of each alternative in a manner that will facilitate comparison. The effects of the no-action alternative must be included to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives. A description of the existing environment will be included in the no-action section to provide background information. The detail in which the affected environment is described will be commensurate with the complexity of the situation and the significance of the anticipated impacts;

4. The draft EIS will be provided to all local, state, and federal agencies and public groups with an interest in the proposed project and be made available to the public for review. The final EIS will include all objections and suggestions made before and during the draft EIS review process along with the issues of public concern expressed by individuals or interested groups. The final EIS must include discussions of any comments pertinent to the project or the EIS. All commenters will be identified. If a comment has led to a change in either the project or the EIS, the reason should be given. The department will always endeavor to resolve any conflicts that may have arisen, particularly among permitting agencies, prior to the issuance of the final EIS. In all cases, the comment period will be no less than forty-five (45) days;

5. Material incorporated into an EIS by reference will be organized into a supplemental information document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons within the comment periods specified in paragraph *[(2)](4)(C)4.* and subparagraph *[(2)](4)(C)7.C.*;

6. When an EIS is prepared by contractors, either in the service of the *[applicant]* recipient or the department, the department will independently evaluate the EIS prior to issuance of the ROD and take responsibility for its scope and contents. The staff who undertake this evaluation will be identified under the list of preparers along with those of the contractor and any other parties responsible for the content of the EIS; and

7. The public participation required for an EIS is extensive but, depending upon the nature and scope of the proposed project, should be supplemented by the *[applicant]* recipient. The following requirements represent the minimum allowable:

A. Upon making the determination that an EIS will be required of a proposed project, the department will distribute a notice of intent to prepare an EIS;

B. As soon as possible after the notice of intent has been

issued, the director *[of staff]* will convene a meeting of the affected federal, state, and local agencies, the *[applicant]* recipient and other interested parties to determine the scope of the EIS. A notice of this scoping meeting may be incorporated into the notice of intent or prepared as in paragraph *[(2)](4)(B)2.* of this rule except that in no case will the notification period be less than forty-five (45) days. As part of the scoping meeting, the director *[of staff]* at a minimum will—

(I) Determine the significance of issues and analyze in depth the scope of those significant issues in the EIS;

(II) Identify the preliminary range of alternatives to be considered;

(III) Identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(IV) Discuss the method for EIS preparation and the public participation strategy;

(V) Identify consultation requirement of other laws and regulations; and

(VI) Determine the relationship between the preparation of the EIS and the completion of the facilities plan and any necessary arrangements for coordination of the preparation of both documents; and

C. Following the scoping process, the director *[of staff]* will begin the identification and evaluation of all potentially viable alternatives to adequately address the range of issues developed in the scoping. A summary of this, including a list of the significant issues identified, will be provided to the *[applicant]* recipient and other interested parties. Preparation of the EIS will be done at the discretion of the *[commission]* department: directly, by the staff; by consultants to the *[commission]* department; or by a consultant contracted by the *[applicant]* recipient subject to approval by the *[commission]* department. In the latter two (2) cases, the consultant will be required to execute a disclosure statement prepared by the department signifying they have no financial or other conflicting interest in the outcome of the project. Both the draft EIS and final EIS will be distributed and made available for public review in a fashion consistent with the requirements of paragraph *[(2)](4)(B)2.* of this rule except that the advertisement and comment period for the public participation will be no less than forty-five (45) days. The department will publish in a newspaper of general circulation in the project area, a notice of availability of the EIS giving locations at which it will be available for public review at least forty-five (45) days prior to making any environmental determination.

[(3)](5) Environmental [Review] Determination.

(A) When the director *[of staff]* has determined that an *[applicant's]* recipient's proposed project may be excluded from a formal environmental review, the director *[of staff]* will prepare a *[public notice of the]* determination to categorically exclude the project *[and the availability of supporting documentation for public inspection. The notice will be published in a local newspaper of community-wide circulation by the applicant].* The director *[of staff, concurrent with the publication,]* will distribute *[the notice] the determination to [all] interested [parties] federal agencies, state, and local governments, and entities that have expressed an interest in the proposed project, and a copy will be made available to the public upon request.*

(B) An environmental review of the proposed project, supported by the *[applicant's]* recipient's EID, will be conducted by the director *[of staff]* to determine whether any significant impacts are anticipated and whether any changes may be made in the proposed project to eliminate significant adverse impacts. As part of this review, the director *[of staff]* may require the *[applicant]* recipient to submit additional information or undertake additional public participation and coordination to support its environmental determination. Based on the environmental review, the director *[of staff]* will prepare a FNSI/EA describing—

1. The purpose and need for the proposed project;
2. The proposed project including its costs;
3. The alternatives considered and the reasons for their rejection or acceptance;
4. The existing environment;
5. Any potential adverse impacts and mitigative measures; and
6. Any proposed conditions to the provision of financial assistance and any means provided for the monitoring of compliance with the conditions.

(C) When the director has determined that a FNSI/EA will be issued, the director will prepare FNSI/EA determination. The FNSI/EA will be distributed to [all parties, governmental] interested federal agencies, state and local governments, and entities [and agencies] that [may] have expressed an interest in the proposed project, and a copy will be available to the public upon request. No action regarding approval of the facilities plan or the provision of financial assistance will be taken by the director [of staff] for at least thirty (30) days after the issuance of the FNSI/EA.

(D) Public participation requirements for an EIS are detailed in paragraph [(2)](4)(B)2. except the ROD and final EIS shall have a forty-five- (45)-[-] day period of notice.

[(E) In accordance with paragraphs (1)(B)1. and 2. and subsection (1)(C), the director of staff will conduct environmental reviews and issue public notices or amended determinations as appropriate.]

(6) Environmental Determination Modification.

(A) Recognizing that a project may be altered at some time after an environmental determination on the project has been issued, the director will provide that, prior to approval, the plans and specifications, loan application and related documents will be examined for consistency with the environmental determination. If inconsistencies are found, the director may revoke a CE and require the preparation of a FNSI/EA or an EIS, or require the preparation of amendments to a FNSI/EA or supplements to an EIS, as appropriate. Based upon the staff's review of the amended project, the director will—

1. Reaffirm the original environmental determination through the issuance of a public notice or statement of finding;
2. Issue a FNSI for a project for which a CE has been revoked or issue a public notice that the preparation of an EIS will be required;
3. Issue an amendment to a FNSI/EA or revoke a FNSI and issue a public notice that the preparation of an EIS will be required; or
4. Issue a supplement to a ROD or revoke a ROD and issue a public notice that financial assistance will not be provided.

(B) When five (5) or more years have elapsed between the last environmental determination and the submittal of an application to the fund, the director will reevaluate the project, environmental conditions and public views and, prior to approval of the application, proceed with the environmental determination in accordance with section (5).

(7) The director may, on a case by case basis, accept the environmental reviews, consistent with the National Environmental Policy Act completed by other state and federal agencies. Environmental reviews completed by other state and federal agencies must be less than five (5) years old unless reaffirmed.

AUTHORITY: section 644.026, RSMo [Supp. 1993] 2016. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for the Clean Water Commission to be held at 10 a.m. on August 15, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring/Roaring River Conference Rooms, 1730, East Elm Street, Jefferson City, MO 65101.

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

PROPOSED AMENDMENT

10 CSR 20-4.061 Storm Water Grant and Loan Program. The department is amending subsection (2)(J) and paragraph (5)(B)4. with minor terminology edits; deleting subsections (11)(A) through (C) as this portion of the rule has since expired; adding new subsections (11)(A) and (B) to describe the current grant payment process; amending section (13) to describe the current grant repayment terms; and amending section (14) with a minor change in terminology.

PURPOSE: The amendment removes outdated requirements for grant disbursements and updates grant repayment conditions.

(2) Definitions.

(J) Storm Water [Repayment Fund] Loan Revolving Fund. Fund containing repayments and interest from storm water loans originated from storm water control bonds.

(5) Eligible Project Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under the Storm Water Grant and Loan Program.

(A) General. It is the policy of the commission that all project costs will be eligible if they meet the following tests:

1. Reasonable and cost effective;
2. Necessary for the construction of an operable storm water facility or for the completion of a comprehensive storm water master plan; and
3. Included in the scope of the project as described in the application and engineering submittals.

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

1. Costs for development of a comprehensive storm water control plan meeting the requirements of subsection (3)(D);
2. Engineering services for planning and design based on invoiced amounts for a contracted engineering consultant. A copy of the approved engineering agreement must be submitted to the department or delegated entity when engineering services are to be reimbursed with grant or loan funds. The contract should be a lump sum or cost plus fixed fee contract in the form of a bilaterally executed written agreement.
3. Costs for construction-related engineering when invoiced per an acceptable two (2)-party engineering agreement;
4. Construction costs including construction permits as issued by [DNR] the department;
5. Land purchase or permanent easement costs required for storm water holding basins, grass-lined channels, or for other limited structural storm water control projects, or buy-outs if the land purchased is restricted such that no permanent structure except for structures allowed under the Missouri Statewide Comprehensive Outdoor

Recreation Plan (SCORP) may be constructed within the easement or purchase area. Construction costs related to holding basins on private land are eligible if the eligible recipient retains a permanent easement, is legally responsible for operation and maintenance of the facility, and the basin constructed is clearly for storm water control and not recreational use;

6. Costs of force account work for planning, design, construction, construction engineering, and costs of rented or leased equipment. It does not include the costs of recipient-owned equipment or the costs of administration for grants and loans. Engineering performed by force account must meet the requirements of 10 CSR 20-4.061(9) which state that storm water plan preparation, design, and inspection must be provided by a registered professional engineer or by a person under the direct and continuing supervision of a registered professional engineer. To be considered for force account, the following information must be submitted for review and approval by the department prior to beginning on the project:

A. Which project(s) they intend to do with city employees;

B. The names of the employees who will be working on the project;

C. A specific time code must be assigned to each project. The letter should state the time code number;

D. For engineering work, the letter must contain an assurance that the employee is a registered professional engineer or the name of the professional engineer who directly supervises this person;

E. The hourly wage for each individual must be given. If the person is salaried, this is the total annual salary divided by two thousand and eighty (2,080) hours. The hourly wage cannot include fringe or indirect costs; and

F. A copy of the time card that will be used. The time card must list the employee name, project time code, hours worked, and the signature of the employee and the supervisor. Should there be a change in employees, salary, or engineering supervisor during the course of the project, the recipient must amend/update the information in the original letter before that salary and/or employee cost can be reimbursed;

7. Demolition costs of structures located within storm water control areas provided future development of permanent structures in the storm water control area is restricted;

8. Local cost of issuance and capitalized interest incurred on loans administered under this rule;

9. Up to five (5) sequential years of grant and/or loan funding may be used for the same project if it meets the following criteria:

A. The contract is awarded within the time frame necessary to receive the first grant and/or loan of the sequence;

B. The recipient certifies that there are adequate funds committed from other sources to complete the construction;

C. The recipient commits to the original funding combination for the entire sequence of grants and/or loans; and

D. The recipient certifies that the project will be completed with or without the subsequent years' grant/loan funds.

10. Costs associated with minimizing storm water damage to sink holes;

11. The reasonable costs of administrative fees incurred by a delegated entity in connection with each grant; and

12. One hundred percent (100%) of the reasonable costs of a grant anticipation loan will be eligible. Departmental approval must be obtained prior to securing the grant anticipation loan. Grant anticipation loan costs will be approved when the loan is needed for cash flow purposes for the period between the receipt of the letter of commitment and the first receipt of funds by the grantee. The approved costs of a grant anticipation loan will not increase the approved grant amount.

(7) Grant Amount. The maximum grant is limited to fifty percent (50%) of the total eligible project costs or available funds, whichever is less. The recipient must provide the remaining amount needed to

complete the project through a storm water loan administered by the **[DNR] department** or other acceptable source of funds. Grants may be matched with other state or federal grants up to one hundred percent (100%) of the eligible project costs.

(11) Grant Payments.

[(A) For Storm Water Grants and Storm Water Grant Amendments Made during the Period March 4, 2007 through August 30, 2007. For grants that are not matched with loans from this program, full payment will be made at the time of the department's receipt of the executed grant award or grant amendment. The following provisions shall apply:

1. Except for a delegated entity, the grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-1.102, RSMo. The requirement to establish an escrow account may be waived for projects that are expected to be complete within three (3) months of grant award;

2. The full grant amount, less any payments processed prior to the date of this rule, will be paid into the grantee's established escrow account or to the grantee directly if the escrow account requirement has been waived;

3. Grant funds paid to the escrow account or to the grantee may be used to pay up to fifty percent (50%) of the costs of section (5) of the rule. No funds may be withdrawn from the escrow account until the following conditions have been met:

A. Projects involving construction and not paid through a delegated entity must submit to the department:

(I) Construction plans and specifications, design criteria, and drainage basin plan prepared in accordance with subsection (3)(D) of this rule; and

(II) Executed contract documents;

B. All construction contracts must be awarded by December 31, 2007. For grants not paid through a delegated entity, it is the grantee's responsibility to submit the construction documents to the department no later than January 31, 2008. Failure to award the major construction contracts by December 31, 2007, will result in departmental recovery of the full grant amount;

C. For grants for planning projects, the grantee must have all grant funds fully committed to the project by July 1, 2008; and

D. Any funds remaining in an escrow account established under this subsection on January 1, 2010, will be recovered by the department;

4. The grantee shall submit the bank statement of the escrow account monthly within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs. For grantees that have received grant funds when the escrow requirement has been waived, documentation shall be submitted within one hundred twenty (120) days of grant payment; and

5. Projects administered through a delegated entity will be paid in accordance with that entity's procedure on file with the department.

(B) Storm Water Grants and Loans Made after August 30, 2007. Based on the cash flow circumstances of the storm water bond fund, the department may elect to pay out the full grant amount at the time of grant award or to make multiple reimbursement payments to the grantee.

1. If the department elects to make full payment of the grant amount, the payment shall be made at the time of the department's receipt of the executed grant award. The following provisions apply:

A. Except for a delegated entity, the grantee shall

establish a separate account dedicated to the storm water grant funds;

B. The grant amount must be deposited to the dedicated account;

C. Grant funds may be used to pay up to fifty percent (50%) of the eligible costs listed in section (5) of this rule. No funds may be withdrawn from the escrow account until the following conditions have been met:

(I) For construction projects not paid through a delegated entity, the grantee must submit and receive departmental concurrence for:

(a) Construction plans and specifications prepared in accordance with subsection (3)(D) of this rule; and

(b) Executed contract documents; and

(II) For planning projects not paid through a delegated entity, the grantee must have the department's approval for all major consulting contracts, and a copy of the consulting contracts must be on file with the department;

D. The bank account may earn interest; however, all withdrawals from the account must be documented with eligible invoices. If the project costs are inadequate to withdraw all the funds in the account, the balance must be refunded;

E. Any funds remaining in an escrow account established under this subsection three (3) years after the initial payment will be recovered by the department; and

F. The grantee shall submit the bank statement of the escrow account monthly within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs.

2. If the department elects to make multiple grant payments rather than fund the grantee's escrow account, payments can be requested no more frequently than monthly. The department will provide a payment form for the grantee to use. The payment request must be supported by invoices to document the costs incurred. Grant funds may be used to pay up to fifty percent (50%) of the eligible costs listed in section (5) of this rule. No funds will be released to the grantee until the following conditions have been met:

A. For construction projects not paid through a delegated entity, the grantee must submit and receive departmental concurrence for:

(I) Construction plans and specifications prepared in accordance with subsection (3)(E) of this rule; and

(II) Executed contract documents;

B. For planning projects not paid through a delegated entity, the grantee must have the department's approval for all major consulting contracts, and a copy of the consulting contracts must be on file with the department; and

C. Any funds remaining in the grant three (3) years after the date of the grant award will be recovered by the department.

3. Projects administered through a delegated entity will be paid in accordance with the delegated entity's procedure on file with the department.

(C) An audit to verify eligible project costs will be made by the department after the completion and inspection of the project. Any funds found not expended for purposes listed in section (5) of this rule will be recovered in addition to any applicable penalties.]

(A) Prior to the grant award, the department will notify the grantee how funds will be disbursed under the grant.

1. No funds may be drawn from the grant until the following conditions have been met:

A. For construction projects, the grantee must submit to the department:

(I) Construction plans and specifications prepared in

accordance with subsection (9)(A) of this rule; and

(II) Executed contract documents.

B. For planning projects, the grantee must have the department's concurrence for all major consulting contracts, and a copy of the consulting contracts must be on file with the department; and

C. The grantee has documented it has secured matching funds for the grant.

2. Projects administered through a delegated entity will be paid in accordance with the delegated entity's procedure on file with the department.

(B) An audit to verify eligible project costs and inspection of the project may be made by the department. Any funds found not expended for purposes listed in section (5) of this rule will be recovered in addition to any applicable penalties.

(12) Loan Requirements.

(A) Loans shall be administered in accordance with the provisions in 10 CSR 20- 4.041 [for 10 CSR 20-4.042] except that the loan shall not be subject to requirements unique to wastewater treatment projects. When the storm water loan is funded through storm water control bonds, the loan shall not be subject to requirements specific to federal funding.

(B) Loans must be secured with an acceptable debt instrument including revenue or general obligation bonds [for debt issued pursuant to Environmental Improvement and Energy Resources Authority's (EIERA) SRF program policy on annual appropriation backed debt]. Other financing securities will be reviewed on a case-by-case basis. [Tax Increment Financing (TIF) security structures will not be considered. Loans must be amortized over twenty (20) years or less from loan closure.] Repayment must begin within one (1) year of project completion.

(C) The commission may direct that existing and/or future loans be leveraged through the Environmental Improvement and Energy Resources Authority.

[(D) Loan payments will be made no more frequently than monthly.]

[(E)](D) If at any time during the loan period the facility(ies) financed under this rule is sold, either outright or on contract for deed, to other than a political subdivision of the state, the loan becomes due and payable upon transfer.

(13) Repayment of Grant. [Repayment] A portion of the grant [is required if the applicant fails to obtain and meet reporting requirements of all DNR permits for all facilities owned by the recipient. The grant may also] will be required to be repaid [at a straight-line depreciated rate] if the facilities constructed with grant funds are sold or transferred to private ownership. The grantee shall notify the department at least ninety (90) days prior to any such transfer. The amount of grant funds to be repaid will be based on a straight-line depreciation schedule based on the useful life of the project, but in no event exceeding a thirty (30)-year depreciation schedule.

(14) [Stormwater] Storm Water Loan Revolving Fund. Storm water grants and loans may be awarded from the [stormwater] storm water revolving fund as funds are available. Eligible applicants must be a municipality, county, public sewer district, public water district, or a combination of the same. Except for subsections (3)(A)-(C), all provisions of this regulation apply to grants and loans made from the [stormwater] storm water revolving fund.

AUTHORITY: sections 644.026[, RSMo 2000] and [section] 644.570, RSMo [Supp. 2008] 2016. Original rule filed June 9, 1999, effective March 30, 2000. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for the Clean Water Commission to be held at 10 a.m. on August 15, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring/Roaring River Conference Rooms, 1713 East Elm Street, Jefferson City, MO 65101.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

PROPOSED AMENDMENT

10 CSR 20-6.010 Construction and Operating Permits. The Clean Water Commission is amending sections (1) through (14), deleting and replacing sections (2) and (7), and adding a new section (15).

PURPOSE: This amendment clarifies continuing authority requirements, simplifies the list of projects requiring construction permits, removes duplicative language found in other regulations, requires electronic submittals of certain information, and serves as a general clean-up for consistency and clarity.

PURPOSE: This rule sets forth the requirements and process of application for construction and operating permits, and the terms and conditions for the permits. This rule also clarifies the requirements of the permit program, improves its administration, and brings the program in compliance with the latest federal regulations, 44 FedReg 32.854 (1979).

(1) Permits—General.

(A) All persons who build, erect, alter, replace, operate, use, or maintain existing point sources, or intend these actions for a proposed point source, water contaminant sources, or wastewater treatment facilities shall apply to the Missouri Department of Natural Resources (department) for the permits required [by the Missouri Clean Water Law and these regulations] in accordance with sections (4) and (7) of this rule. The [D]department issues these permits [in order] to enforce the Missouri Clean Water Law and regulations and administer the National Pollutant Discharge Elimination System (NPDES) Program.

(B) The following are exempt from [permit regulations] this rule:

1. Nonpoint source discharges;
2. Service connections to wastewater [sewer] collection systems;
3. [Internal plumbing and piping or other water diversion or retention structures within a manufacturing or industrial plant or mine, which are an integral part of the industrial or manufacturing process or building or mining operation. An operating permit or general permit shall be required, if the piping, plumbing, or structures result in a discharge to waters of the state;] **Internal plumbing, piping, water diversion, or retention structures that are an integral part of an industrial process, plant, or operation that do not discharge to waters of the state;**
4. Routine maintenance or repairs of any existing [sewer] col-

lection system, wastewater treatment facility, or other water contaminant or point source;

5. **Onsite systems for [S]single family residences;**

6. The discharge of water from an environmental emergency cleanup site under the direction of, or the direct control of, the [Missouri Department of Natural Resources] department or the Environmental Protection Agency (EPA), provided the discharge [shall] does not violate any condition of 10 CSR 20-7.031 Water Quality Standards;

7. Water used in constructing and maintaining a drinking water well and distribution system for public and private use, geologic test holes, exploration drill holes, groundwater monitoring wells, and heat pump wells;

8. [Small scale pilot projects or demonstration p]Projects for beneficial use, that do not exceed a period of one (1) year, may be exempted by written project approval from the [permitting authority] department. The department may extend the permit exemption for up to one (1) additional year. A permit application shall be submitted at least ninety (90) days prior to the end of the demonstration period if the facility intends to continue operation, unless otherwise exempted under this rule or Chapter 6; and];

9. The application of pesticides in order to control pests (e.g., any insect, rodent, nematode, fungus, weed, etc.) in a manner that is consistent with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Missouri Pesticide Use Act unless such application is made directly into or onto waters of the state, in which case the applicator shall obtain a permit./;]

10. Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new pipelines and storage tanks in the state of Missouri may discharge to waters of the state without first obtaining a permit if the discharge is de minimis (less than one thousand (<1,000) gallons) or meeting the requirements in section(14) of this rule;

11. Nondischarging earthen basins for domestic wastewater flows of three thousand gallons per day (3,000 gpd) or less; and

12. Rinsates and any spilled or recovered pesticides that are field applied at rates compatible with pesticide product labeling.

(C) [Nothing shall prevent the Department from taking action, including the requirement for issuance of any permits under the Missouri Clean Water Law and regulations, if any of the activities exempted under subsection (1)(B) should cause pollution of waters of the state or otherwise violate the Missouri Clean Water Law or these regulations.] **Permittees may pursue integrated planning to facilitate the use of sustainable and comprehensive solutions.**

[(2) Applications.

(A) An application for, or for renewal of, a construction permit or operating permit shall be made on forms (see 10 CSR 20-6.090) provided by the Department. The applications may be supplemented with copies of information submitted for other federal or state permits. The application shall include a one inch equals two thousand feet (1" = 2000') scale (or larger) map showing the location of all outfalls, as well as a flowchart indicating each process which contributes to an outfall. Each application must be accompanied by the appropriate permit fee. Alternate scale maps are allowed upon the request of the applicant and approval of the Department of Natural Resources.

(B) All applications must be signed as follows:

1. For a corporation, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by an individual having overall responsibility for environmental matters at the facility;

2. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or

3. For a municipal, state, federal, or other public facility, by either a principal executive officer or by an individual having overall responsibility for environmental matters at the facility.

(C) All other reports required by the Department shall be signed by a person designated in subsection (2)(B) of this rule or a duly authorized representative, if—

1. The representative so authorized is responsible for the overall operation of the facility from which the discharge occurs; and

2. The authorization is made in writing by a person designated in subsection (2)(B) of this rule and is submitted to the director.

(D) Any changes in the written authorization which occur after the issuance of a permit shall be reported to the Department by submitting a new written authorization which meets the requirements of subsection (2)(C).]

[(3)](2) Continuing Authorities.

(A) [All applicants for construction permits or operating permits shall show as part of their application, that a permanent organization exists which will serve as the continuing authority for the operation, maintenance, and modernization of the facility for which the application is made. Construction and first-time operating permits shall not be issued unless the applicant provides such proof to the Department and the continuing authority has submitted a statement indicating acceptance of the facility.] Each application for a construction permit or operating permit shall identify the person, as that term is defined in section 644.016(15), RSMo, that is the owner of, operator of, or area-wide management authority for a water contaminant source, point source, wastewater treatment facility, or sewer collection system. This person shall be designated as the continuing authority and shall sign the application. By doing so, the person designated as the continuing authority acknowledges responsibility for compliance with all permit conditions.

(B) Continuing authorities [which can be issued permits to collect and/or treat wastewater under this regulation] are listed in preferential order in the following paragraphs. [An applicant may utilize a lower preference continuing authority by submitting, as part of the application, a statement waiving preferential status from each existing higher preference authority, providing the waiver does not conflict with any area-wide management plan approved under section 208 of the Federal Clean Water Act or any other regional sewage service and treatment plan approved for the higher preference authority by the Department:] A level three (3), four (4), or five (5) applicant may constitute a continuing authority by showing that the authorities listed under paragraphs (B)1.-2. of this rule are not available; do not have jurisdiction; are forbidden by state statute or local ordinance from providing service to the person; or has met one of the requirements listed in paragraphs (2)(C)1.-7 of this rule.

1. **Level 1 Authority.** A municipality or public sewer district or governmental entity which has been designated as the area-wide management authority under section 208(c)(1) of the Federal Clean Water Act;

2. **Level 2 Authority.** A municipality, public sewer district, or [sewer company regulated by the Public Service Commission (PSC)] governmental entity which currently provides [sewage] wastewater collection and/or treatment services on a regional or watershed basis as outlined in [10 CSR 20-6.010(3)(C)] subsection (2)(E) of this rule and approved by the Missouri Clean Water Commission]. Permits shall not be issued to a continuing authority regulated by the PSC until the authority has obtained a certificate of convenience and necessity from the PSC];

3. **Level 3 Authority.** A municipality, public sewer district, or

sewer company regulated by the **Public Service Commission (PSC)** other than one which qualifies under paragraph [(3)](2)(B)1. or 2. of this rule or a public water supply district. Permits shall not be [issued to] applied for by a continuing authority regulated by the PSC until the authority has obtained a certificate of convenience and necessity from the PSC;

4. **Level 4 Authority.** Any person, industry, or group of persons contractually obligated to collectively act as a wastewater collection and treatment service, or nonprofit company organized under section 393.825, RSMo, with complete control of, and responsibility for[,] the water contaminant source, point source, or wastewater treatment [facility and all property served by it] system. [The person may constitute a continuing authority only by showing that the authorities listed under paragraphs (3)(B)1.-3. of this rule are not available, do not have jurisdiction, are forbidden by statute or ordinance from providing service to the person or, if available, have submitted written waivers as provided for in subsection (3)(B) of this rule; and]

5. **Level 5 Authority.** An association of property owners served by the wastewater treatment facility, provided the applicant [shows] documents that—

A. [The authorities listed in paragraphs (3)(B)1.-3. of this rule are not available or, that any available authorities have submitted written waivers as provided for in subsection (3)(B);] The association is a corporation in good standing registered with the Office of the Missouri Secretary of State;

B. The association owns the facility and has valid easements for all sewers;

C. [The document establishing the association imposes] The covenants on the land of each property owner which [assures the proper operation, maintenance, and modernization of the facility] provides the authority for compliance of wastewater treatment system including at a minimum:

(I) The power to regulate the use of the collection system and/or the wastewater treatment facility;

(II) The power to levy assessments on its members and enforce these assessments by liens on the properties of each owner;

(III) The power to convey the facility to one (1) of the authorities listed in paragraphs [(3)](2)(B)1.-3.; and

(IV) The requirement that members connect with the facility and be bound by the rules of the association[; and].

[D. The association is a corporation in good standing registered with the Office of the Missouri Secretary of State.]

(C) [The department will review the planning, design, construction, and designation of watershed or regional sewage works. Where development is insufficient to warrant immediate construction of facilities for the entire watershed or region, interim facilities for a portion of the area shall be authorized as long as the design is compatible with 10 CSR 20-8, Design Guides. The department shall condition permits for these interim discharges so they will be eliminated upon the availability of watershed or regional facilities, At such time as watershed or regional facilities become available, and to the extent their capacity is sufficient, any existing subregional treatment works and/or lift stations shall be taken out of service and the tributary waste flows diverted into the watershed or regional facilities. A Regional Sewage Service and Treatment Plan shall be developed by all affected political jurisdictions and submitted to the Department. Staff will review the plan and submit recommendations to the Clean Water Commission. The Clean Water Commission may approve, require changes, deny the plan, and/or hold public hearings related to approval of the plan.] Applicants proposing use of a lower preference continuing authority, when the higher level authority is available, must submit one (1) of the following for the department's review, provided it does not conflict with any area-wide management plan approved under section 208 of the Federal Clean Water Act or by the Missouri Clean Water

Commission:

1. A waiver from the existing higher authority;
2. A written statement or a demonstration of non-response from the higher authority declining the offer to accept management of the additional wastewater;
3. A to-scale map showing that all parts of the legal boundary of the property to be connected are beyond two thousand feet (2000') from the collection system operated by a higher preference authority;
4. A proposed connection or adoption charge by the higher authority that would equal or exceed what is economically feasible for the applicant, which may be in the range of one hundred twenty percent (120%) of the applicant's cost for constructing or operating a wastewater treatment system;
5. A proposed service fee on the users of the system by the higher authority that is above what is affordable for existing homeowners in that area;
6. Terms for connection or adoption by the higher authority that would require more than two (2) years to achieve full sewer service; or
7. A demonstration that the terms for connection or adoption by the higher authority are not viable or feasible to homeowners in the area.

(D) The Applicants for [//industries, [including electric cooperatives and mining operations, are by definition continuing authorities] shall submit a statement waiving preferential status from each existing higher preference authority listed in paragraphs (2)(B)1.,2., or 3. of this rule for collection and treatment of industrial [type wastewater and incidental], process, and domestic wastewater [associated with their operation when an authority listed in paragraph (3)(B)1. or 2. is infeasible] as part of a new operating permit application.

(E) Private corporations which are not incorporated under the laws [of the state] of Missouri shall be represented by a registered agent in the state of Missouri before a construction permit or an operating permit will be issued by the department.

(F) Application of Level 2 Authority. If a municipality or public sewer district wishes to provide wastewater collection and/or treatment services on a regional or watershed basis as outlined in paragraph (2)(B)2. of this rule, the entity shall—

1. Submit a preliminary request to the Missouri Clean Water Commission through the department to obtain higher authority;
2. Develop a plan, which includes, but not limited to:
 - A. A discussion of regional treatment service;
 - B. Capital improvements program;
 - C. Process to provide waivers when sewer connection is not available;
 - D. Approach to address permit compliance with facilities in the service area;
 - E. Community financial capability information; and
 - F. Defined service area map;
3. Obtain and maintain authority through ordinances to compel wastewater users and facilities to connect for management of wastewater flows. The ordinance requires the recipient to notify all potential users of service availability and that all users connect to the system within the timeframe provided in the notice of service availability. Submit a copy of the enacted ordinance;
4. Provide a public meeting prior to approval of the plan developed according to paragraph (2)(I)2. of the rule and the draft ordinance. Distribution of information and the publication of the notice of decision-making should occur for at least thirty (30) days. Following the public meeting, provide a copy of the transcript, attendance log, recording, or other complete record to the department;
5. Submits a final request to the Missouri Clean Water Commission through the department, containing the fulfillment of paragraphs (2)(G)1.-4. of this rule, incorporating preliminary recommendations provided by the Missouri Clean Water

Commission;

6. Staff will review the plan and present recommendations to the Missouri Clean Water Commission for action;

(3) Antidegradation. Applicants seeking new or expanded discharges shall submit an antidegradation review request.

(A) Applicants may submit their request on forms provided by the department, and other information in support of the project, including, but not limited to, the following:

1. The Water Quality Review Assistance Antidegradation Review Request form, and the appropriate attachments;
2. An antidegradation report detailing the proposed project; and
3. Any additional information, evidence, documentation, technology performance information, modeling, or monitoring data consistent with the Antidegradation Implementation Procedure; and
4. The appropriate fee according to 10 CSR 20-6.011.

(B) Public comment. The department will place a public notice of the antidegradation determination on the department's website and allow the public an opportunity to provide comments for a minimum of thirty (30) days. The antidegradation determination may be revised as a result of comments received.

(4) Facility Plans and Engineering Reports. Applicants seeking a construction permit shall submit a facility plan or engineering report unless otherwise designated by the department.

(A) Submit the engineering report and/or facility plan prior to submittal of the Construction Permit Application, including the following, as applicable:

1. A signed Facility Plan or Engineering Report. All facility plans and engineering reports are to be signed and sealed by a Missouri registered professional engineer, and contain the information in accordance with 10 CSR 20-8;
2. Identify the alternative technical manuals and design criteria utilized that is different from the design guidance provided in 10 CSR 20-8.110 through 10 CSR 20-8.220;
3. Submit one (1) hard copy and an electronic version (in Portable Document Format (PDF) searchable format or department approved equivalent) for review;
4. For Engineering Reports—
 - A. Submit a plan of the existing and proposed sewers for projects involving new sewer systems and substantial additions to existing systems;
 - B. Submit a plan for projects involving construction or revision of pumping stations;
 - C. Provide the design basis and operating life;
5. For Facility Plans—
 - A. Submit an approved Water Quality Review and Antidegradation evaluation or determination for all new and expanding facilities, in accordance with 10 CSR 20-7.031(3). For non-funded projects, information submitted as part of the Antidegradation Report does not have to be resubmitted with the facility plan;
 - B. Evaluate the feasibility of constructing and operating a facility with no discharge to waters of the state if the report is for a new or modified wastewater treatment facility;
 - C. Evaluate the economics of the project including alternatives to constructing a discharging system, including an evaluation of alternatives of wastewater irrigation or subsurface dispersal and connection to a regional wastewater treatment facility;
 - D. A geohydrological evaluation conducted by the department's Missouri Geological Survey, for all proposed new construction, new earthen basins, new outfall locations, wastewater irrigation fields, and subsurface dispersal sites. Include any recommendations provided in the geohydrological evaluation;
 - E. A soil morphology analysis conducted by a duly qualified soil individual for all subsurface systems and for all wastewater irrigation systems applying more than twenty-four inches

(24") per year. Submit on forms provided by the department.

(B) Engineering reports and/or facility plans are exempt for the following non-funded projects:

1. Disinfection equipment projects for treatment types promulgated in 10 CSR 20-8.190;
2. Projects exempted from construction permitting under subsection (5)(C) of this rule;
3. Sewer extensions permitted under the general construction permit provided in subsection (5)(D) of this rule;
4. Sewer projects that submit a Missouri registered professional engineer's Sewer Extension Design Certification with the permit application; and
5. Treatment plants and/or sewer extensions by a permittee with their own authority under subsection (6) of this rule, if they are not receiving department funding.

[(4)](5) Construction Permits.

(A) [No] Any person [shall cause] causing or permitting the construction, installation, or modification of any [sewer] collection system [or of any water contaminant source, point source,] or wastewater treatment facility [without] shall first [receiving] receive a construction permit issued by the department [except] for any of the following activities:

1. [Construction of a separate storm sewer; and] New or modified domestic wastewater discharges;
2. [Facilities as provided in other 10 CSR 20-6 regulations.] New or modified surface and subsurface wastewater treatment for private or domestic wastewater treatment facilities;
3. New or modified earthen basins used for wastewater storage or treatment including industrial operations and Class I Concentrated Animal Feeding Operations;
4. Sewer extensions and/or pump stations; or
5. Innovative technologies for domestic and publicly owned wastewater treatment, as defined by 10 CSR 20-8.140.

(B) The following activities are exempt from construction permitting when the activities meet the applicable standards in 10 CSR 20-2 through 10 CSR 20-9. Projects exempt from construction permitting may require professional engineering, as defined in section 327.181, RSMo 2016:

1. Construction of a separate storm sewer;
2. Sewer extensions one thousand feet (1,000') or less, including gravity sewers and/or force mains, with no more than one (1) pump station;
3. Construction of less than three thousand gallons per day (3,000 gpd) non-discharging lagoon systems;
4. Class II and smaller Animal Feeding Operations (AFO), as designated in 10 CSR 20-6.300;
5. Nondomestic discharges of process wastewater except discharges utilizing an earthen basin;
6. Stormwater best management practices, as defined in 10 CSR 20-6.200;
7. Industrial facilities connecting to a publicly owned wastewater treatment facility;
8. Treatment facilities evaluated and constructed under other department programs;
9. Systems adding common metal salts for phosphorus removal prior to existing liquid-solids separation and tertiary filtration;
10. Adding pre-engineered dechlorination equipment;
11. Solids processing equipment;
12. Like-for-like replacement (e.g., replacing eight-inch (8") pipe with eight-inch (8") pipe at the same location and grade, but material type may be different);
13. Outfall relocation within the same receiving stream, close proximity to the existing outfall, and upon review by the department;
14. Projects which the department has determined a construction permit is not required through written determination;

and

15. Minor projects that change equipment or operations, but do not affect the overall capacity of the treatment or treatment type, including, but not limited to:

- A. Internal piping changes;
- B. pH adjustment;
- C. Addition of solids storage tanks;
- D. Screening equipment;
- E. Grit removal equipment;
- F. Administrative buildings;
- G. Fences and access roads;
- H. Flow measuring devices;
- I. Mixing equipment;
- J. Addition and/or improvement of sampling equipment;
- K. Replacement of aeration equipment; and
- L. Polymer additives.

(C) General Permits for Sewer Extension Construction. Persons may apply for a general construction permit for construction of gravity sewer line extensions, pump stations, and force mains.

[(B)](D) An applicant must submit [A]a separate construction permit application for each [sewer] collection system, [water contaminant source, point source,] or wastewater treatment facility [must be submitted] to the department. Where there are multiple releases from a single operating location, however, one (1) application may cover all facilities and releases. For continuing authorities listed in paragraphs [(3)](B)1. or 2.] (2)(B)1., 2., or 3., submit only one (1) application [may be required] when the authority operates a [sewage] wastewater treatment [plant] facility and has one (1) or more other noncontinuous [storm water-related] stormwater discharges associated with the [sewage treatment plant] facility.

(E) Demonstration Projects. Demonstration and pilot projects are innovative processes for which minimum design criteria is not well established. Demonstration or pilot projects shall be approved by the department prior to implementation of the new technology process or equipment.

1. Pilot project installations are those whose discharge is returned to the existing treatment facility. They are installed for a period of one (1) year and are exempt from obtaining a construction permit after obtaining department approval of the project evaluation. Refer to paragraph (1)(B)8. of this rule.

A. The project evaluation requirements are identified in 10 CSR 20-8.110(6). Pilot project installations are temporary and coordinated to ensure water quality is protected.

2. A Demonstration Project installation is a full scale innovative technology process. All antidegradation, operating permit, and construction permitting requirements apply.

A. Full scale demonstration projects in Missouri are not exempt from antidegradation or permit requirements.

B. The treatment process must be based on reasonable and sound engineering principles. Include a project evaluation of a technical performance demonstration of treating pollutants of concern in Missouri or locations with a climate similar to Missouri. The expected project evaluation details are outlined in 10 CSR 20-8.110(6) including review of design criteria.

C. An operating permit modification depends on the nature of the treatment process and will be determined during project review of the facility evaluation or plan.

3. The technology remains a demonstration process until documentation verifies consistent performance as designed for treatment of pollutants of concern for twelve (12) consecutive months at three (3) sites in Missouri or locations with a climate similar to Missouri. Design subsequent installations of verified treatment processes based on established design criteria.

[(C)](F) An applicant must submit [A]an application for a construction permit [must be submitted] to the department at least one hundred eighty (180) days for a wastewater treatment facility or sixty (60) days for collection system projects in advance of the

date on which construction begins. *[Requests for a shorter time for a review of a wastewater treatment facility may be made but must be accompanied by a detailed statement of the justification for the request. No such statement is required when the application is only for the construction of sewers.]*

[(D)](G) An application *[shall consist of]* for a construction permit shall be made on forms provided by the department and includes the following items:

1. *[Unless not required by the department, an engineering report shall be submitted by an engineer and shall contain the information required by 10 CSR 20-8.020 and 10 CSR 20-8.110–10 CSR 20-8.220. If the report includes a wastewater treatment facility, it shall include consideration of the feasibility of constructing and operating a facility which will have no discharge to waters of the state (see section (12) of this rule). Unless the department specifies otherwise, this report will be reviewed and necessary changes made before the plans and specifications in paragraph (4)(D)2. will be reviewed;]* A Construction Permit Application Form signed—

A. For a corporation, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by a delegated individual having overall responsibility for environmental matters at the facility;

B. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or

C. For a municipal, state, federal, or other public facility, by either a principal executive officer or by a delegated individual having overall responsibility for environmental matters at the facility;

2. Appropriate permit fee according to 10 CSR 20-6.011;

3. An electronic copy of the construction permit application and the information listed below in Portable Document Format (PDF) searchable format or department approved equivalent, along with one (1) paper copy for projects not seeking department funding or two (2) paper copies for projects seeking department funding under 10 CSR 20-4;

4. An approved Water Quality Review and antidegradation evaluation or determination for all new and expanding facilities, in accordance with 10 CSR 20-7.031(3);

5. A summary of design;

[2.]6. Detailed engineering plans and technical specifications *[shall be submitted by an]* signed, sealed, and dated by a Missouri registered professional engineer *[and shall]*, which contains the information *[required in 10 CSR 20-8.020 and 10 CSR 20-8.110–10 CSR 20-8.220]* in accordance with 10 CSR 20-8, or other regulations as applicable;

[3. An application form and permit fee;

4. A one inch equals two thousand feet (1" = 2000') scale map (or larger) showing the location of all outfalls (alternate scale maps are allowed upon the request of the applicant and approval of the Department of Natural Resources);]

7. A map showing the location of all outfalls, with scale, as well as a flowchart indicating each process which contributes to an outfall; and

[5.]8. Other information necessary to determine compliance with the Missouri Clean Water Law and these regulations as required by the department~~;~~ and~~].~~

[6. If a construction permit is waived by the department, or not required, the information in paragraphs (4)(D)1.–5. may be required with application for the operating permit.]

[(E)](H) If an application is incomplete or otherwise deficient, the applicant *[shall]* will be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

1. Applicants who fail to satisfy all department technical

comments after two (2) certified comment letters, in a time frame established by the department, may have the application returned as incomplete and will forfeit the construction permit application fees.

2. The department will act after receipt of all documents and information necessary for a properly completed application, as listed in subsection (5)(G) of this rule above and including appropriate filing fees, and other supporting documents as necessary, by either *[issuing a notice of operating permit pending]*, issuing or denying the construction permit~~,~~ or denying the permit~~].~~ *[The director in writing, shall give the reasons for a denial to the applicant. Applicants who fail to satisfy all department comments after two (2) certified department comment letters in a time frame established by the department shall have the application returned as incomplete and shall the construction fees shall be forfeited.]*

3. The applicant *[has the right to]* may submit a written request *[that the time frames be extended when]* additional time is needed prior to the conclusion of the set time frame. *[The request must occur within the established time frame, it must be in writing and t]*The department will grant reasonable time extensions.

[(F)] A notice of permit pending is a statement that the department intends to issue an operating permit. The department will issue the public notice of a pending new operating permit for a wastewater treatment facility before it issues the construction permit for the wastewater treatment facility. This allows the public an opportunity for comment prior to the construction of a wastewater treatment facility. A public notice will not be required prior to the issuance of a construction permit for a sewer collection system. If a construction permit for a new wastewater treatment facility is not issued within one (1) year of the date of the notice of permit pending, a new notice of permit pending will be issued.]

(I) Notification in writing. A final determination whether the construction permit is approved, approved with conditions, or denied with reason, will be provided in writing to the applicant by the department within one hundred eighty (180) days.

[(G)](J) Construction permits shall expire *[one (1)]* two (2) years from the date of issuance unless the permittee notifies the department within their application of the necessity for a longer construction period or the permittee applies for an extension. *[The department shall extend construction permits only one (1) time. An applicant for this extension shall show that there have been no substantial changes in the original project and file for extension thirty (30) days prior to expiration. When a construction permit is issued for a project for which the construction period is known in advance to require longer than one (1) year from the date of issuance, the department may issue a permit allowing a period of time greater than one (1) year upon a showing by the applicant that the period of time is necessary and that no substantial changes in the project will be made without notifying the department. If there are changes, the department may require the applicant to apply for a new construction permit. Construction permits may be issued for a period of less than one (1) year when appropriate.]*

1. Submit requests for construction permit extension thirty (30) days prior to expiration. If there are changes, the department may require the applicant to apply for a new construction permit.

(K) The minimum design standards requirements set forth in 10 CSR 20-8 do not preclude the department or the applicant from utilizing other published technical design guides during the

application review process to ensure effluent limitations can be met. The department may request additional information and engineering justification to determine the facility's ability to meet effluent limits.

[(H)](L) Issuance of a construction permit does not constitute a guarantee by the department that the finished [water contaminant source, point source, or] wastewater treatment facility will meet specified effluent limitations.

[(I)] The applicant shall provide the Department with evidence the local planning and zoning agency has been notified of the project and must update the Department on the status of any action by the local planning and zoning agency.]

(M) A site specific operating permit application and appropriate modification fee shall be submitted with the construction permit application to allow for public participation prior to the issuance of a construction permit. An operating permit application and modification fee is not required with the construction permit application if-

1. Effluent limits and permit conditions have been established and previously completed public notice and comment procedures as part of an operating permit renewal;

2. Effluent limits were established as part of the antidegradation review and the required public notice and comment procedures were afforded in accordance with subsection (3)(E) of this rule;

3. No new effluent limits and conditions are needed to be established in the existing operating permit, such as a facility description change; or

4. Applicant is seeking a general permit.

(N) The owner, owner's designee, or the professional engineers shall certify a project is complete or substantially complete, with the submittal of a Statement of Work Completed form.

1. If the project differs from the originally submitted plans and specifications, submit as-built plans clearly showing the alterations upon department request at the completion of the work.

2. A representative of the department may inspect the completed work in order to determine that the completed work substantially adheres to the submitted engineering plans, technical specifications, Missouri Clean Water Law, and Missouri Clean Water Commission regulations.

[(5)] Operating Permits.

(A) Persons who build, erect, alter, replace, operate, use, or maintain any water contaminant source, point source, or wastewater treatment facility which discharges to waters of the state shall obtain an operating permit from the department before any discharge occurs. The operating permit shall be issued to the owner/operator. Nondischarging facilities for the treatment or disposal of wastes, wastewater, or residuals shall obtain permits as provided in 10 CSR 20-6.015. Persons who intend to discharge in accordance with section (14) of this rule are permitted by rule and may discharge without additional written approval from the department.

(B) Applications for an original operating permit for a facility that had a valid construction permit and a prior public notice shall be received by the department at least thirty (30) days before the facility begins to receive wastewater. Applications shall include the earliest date on which the discharge is scheduled to begin. The department will issue or deny the permit within sixty (60) days of receipt of the application. No facility shall discharge without a valid operating permit.

(C) Applications for the renewal of operating permits or for operating permits for facilities that did not require construction permits must be received at least one hundred eighty

(180) days either before the expiration date of the present operating permit or the date the facility begins to receive wastewater.

(D) The department shall require that an engineer certify in writing that the project has been completed in accordance with its approved plans and specifications. A municipal official who has the responsibility for the operation and maintenance of the completed facility and knowledge of the construction may submit the certification to the department. A representative of the department may inspect the completed work in order to determine that the completed work substantially adheres to the approved plans and specifications and to the Missouri Clean Water Law and Clean Water Commission regulations.

(E) The department shall specify in each operating permit the concentration, weight, or both, of each contaminant which may be released.

(6) Sewer Extensions.

(A) Persons who construct sewers tributary to a system operated by one (1) of the continuing authorities listed in paragraphs (3)(B)1. or (3)(B)2. will be exempt from the construction permit requirements for sewers if the continuing authority administers a permit program which has been approved by the department.

1. In order to obtain approval of its permit program the continuing authority must submit a written request. The request must include an account of the procedures to be followed in approving the construction of sewers by others and for handling the design of sewers to be built by its own staff or contractors. The request must include at least the following:

A. Standard specifications and typical appurtenance construction details to which all construction will be required to adhere;

B. A showing that the applicant will engage or employ a sufficient number of professional engineers and other staff qualified to review plans, issue permits, prepare reports, inspect construction, and enforce local and state requirements for each sewer extension;

C. A showing that the applicant will engage or employ a sufficient number of persons qualified to supervise construction or that the applicant has enforceable ordinances which require construction supervision and subsequent certification by a Missouri professional engineer; and

D. A showing that the applicant will maintain permanent plans of all sewers constructed and maintain records of sewer extension approvals and reports.

2. The department will review the application for approval and may ask for additional information if necessary to determine compliance with the Missouri Clean Water Law and these regulations. Approval may be granted for a period of up to five (5) years in the applicant's operating permit.

(B) Upon completion of construction, and certification by the engineer in accordance with subsection (5)(D), owners or operators of sanitary sewer systems or extensions for which construction permits were issued shall apply for a letter of authorization for operation. The system or extension then shall be considered as a part of the treatment facility to which it is tributary for permit purposes.

(7) Schedules of Compliance.

(A) Permits may contain schedules of compliance requiring the permittee to take specific steps to achieve expeditious compliance with applicable standards and limitations and other requirements. Schedules of compliance shall require compliance as soon as practicable, but in no case later than an applicable statutory deadline.

(B) If any permit allows a time for achieving final compliance from the date of permit issuance, the schedule of compliance in the permit shall set forth interim requirements and the dates for their achievement.

(C) Within fourteen (14) days following each interim date and the final date of compliance, the permittee shall provide the Department with written notice of the permittee's compliance or noncompliance with the interim or final requirement for the dates.

(D) The Department may modify a schedule of compliance in an issued permit upon request and a showing of justification by the applicant. In no case shall the compliance schedule be modified to extend beyond an applicable statutory treatment deadline.]

(6) Supervised Programs.

(A) Applicability. Continuing authorities listed in paragraphs (2)(B) 1., 2., or 3. with at least one (1) existing wastewater treatment facility with a design flow one million gallons per day (1 MGD) may be granted supervised program approval by the department. Supervised program approval exempts the permittee from the construction permit requirements for collection system and treatment plant works.

1. For collection system approval, the program solely applies to sanitary and/or combined sewer lines and appurtenances within a defined boundary under the continuing authority's control that ultimately discharges to a wastewater treatment facility owned by the same continuing authority.

2. For treatment plant approval, the program solely applies to continuing authorities conducting their own construction that is funded by the entity, in lieu of submitting plans and specifications for expansion or modification of existing treatment facilities. Continuing authorities desiring treatment plant approval must also have a collection system authority approved by the department.

3. If a project is receiving funding from the department under 10 CSR 20-4, the department may require the continuing authority to obtain a construction permit in compliance with 10 CSR 20-4 and 10 CSR 20-8.

4. If the facility is in noncompliance with the Missouri Clean Water Law, this may be reason for denial, suspension, or termination of the supervised program approval.

(B) Request Submittal. Authorities requesting supervised program approval may submit a request to the department with the following information regarding the system, treatment plant, capacity, and current procedures. The department will review the request, supporting documentation, and may ask for additional information if necessary to determine compliance with the Missouri Clean Water Law and these regulations. The department will inform the permittee in writing of its decision. Approval may be granted for a period of up to five (5) years in the applicant's operating permit.

1. General Information Submittal:

A. A statement that the continuing authority employs or contracts a sufficient number of Missouri registered professional engineers and other staff qualified to review plans, issue permits, prepare reports, inspect construction, and enforce local and state requirements for each sewer extension and treatment plant project. If the continuing authority engages outside firms, provide a copy of the minimum responsibilities and expectations of the consulting engineer and what oversight the continuing authority will have. Reviews must be independent of the designer to avoid conflicts of interest;

B. A statement that the continuing authority employs or contracts a sufficient number of persons qualified to supervise construction or that the continuing authority has enforceable ordinances which require construction supervision and subsequent certification by a Missouri registered professional engineer;

C. A statement on how the continuing authority maintains permanent records of approvals, sewer extensions, and treatment plant construction project and the retention policy for reports and project documentation; and

D. A copy of the procedures followed in reviewing, approving, and inspecting the construction of collection systems by others and for handling the design and construction of collection systems to be built by its own staff or contractors delineating the responsibilities between the designers and the reviewers must be present.

2. For Collection System Approval submit the following information:

A. Standard technical specifications and typical detail drawing, prepared, signed, and sealed by a Missouri registered professional engineer, in accordance with 10 CSR 20-8.110. Standard technical specifications and detail drawings complying with 10 CSR 20-8.120 through 10 CSR 20-8.130, and all other necessary appurtenances;

B. An engineering report discussing the remaining capacity of the existing collection system, including each pump station, and the available capacity of the wastewater treatment facility serving each area. Refer to 10 CSR 20-8.110(4);

C. A current layout map, or maps, of the collection system showing street names, sewer line material types, sizes, and lengths, manholes, pump stations, force mains, air release valves, and other sewer appurtenances as necessary, or a detailed description of the continuing authority's mapping system and the procedures for updating the system;

D. A copy of the enacted ordinance enforcing the standard technical specifications and typical detail drawings.

3. For Treatment Plant Approval, submit the following information:

A. A copy of procedures to be followed in reviewing, approving, and inspecting the construction of wastewater treatment facilities by others and for retaining as-built plans following completion of the project, prepared by a Missouri registered professional engineer, in accordance with 10 CSR 20-8.110;

B. A facility plan discussing existing treatment plant(s), along with a summary of design discussing the remaining capacity of each existing wastewater treatment facility. Refer to 10 CSR 20-8.110(5);

C. Standard specifications and typical appurtenance construction details;

D. Following completion of the project, retain as-builts to be available for review, upon request.

(C) Operating Permit. Supervised program approval will be granted through the applicant's operating permit for a period of up to five (5) years. The operating permit may contain additional reporting requirements including, but not limited to, a summary report for an approved period.

1. Treatment plant authority.

A. Antidegradation. Submittal and approval of an anti-degradation review is required prior to any construction that will increase facility capacity, add or increase pollutants of concern, or change receiving stream. Refer to section (3) of this rule.

B. Operating Permit Modifications. Submit applications for operating permit modifications, when applicable, at least one hundred eighty (180) days before the date the facility begins to receive wastewater, unless permission for a later date has been granted by the department.

C. Technologies not established or discussed in 10 CSR 20-8 are not allowed for the Treatment Plant Approval.

(D) Summary Report. A report summarizing the construction activities will be contained in the operating permit application renewal for reauthorization. The permittee shall maintain the following information at a minimum for the summary report or have available upon department request.

1. For facilities with Collection System approval:

- A. Name of sewer extension;
- B. Length of sewer and force main;
- C. Capacity of each new or upgraded pump station, if applicable;
- D. Date sewer extension permit is issued;
- E. Date sewer extension construction is accepted;
- F. The ultimate receiving wastewater treatment facility;
- G. The remaining long term average capacity of each wastewater treatment facility; and
- H. Upon request, detailed project information on design flow, leakage, deflection, and inspections.

2. For facilities with Treatment Plant approval:

- A. The projects planned, ongoing, or completed;
- B. The remaining long-term average capacity of each treatment facility;
- C. As-builts for new or expanded treatment facilities; and
- D. Documentation and engineering justification of new or expanded treatment facilities of design components, which at a minimum meet the requirements in 10 CSR 20-8, Minimum Design Standards.

(E) Reauthorization. A request for reauthorization must be submitted at least one hundred eighty (180) days prior to expiration reaffirming (6)(B) of this rule. The department may conduct a site visit to review the request and summary report prior to reauthorization.

(7) Operating Permits.

(A) Persons who build, erect, alter, replace, operate, use, or maintain any water contaminant source, point source, or wastewater treatment facility which discharges to waters of the state shall obtain an operating permit from the department before any discharge occurs. The operating permit shall be issued to the owner and continuing authority. Nondischarging facilities for the treatment or disposal of wastes, wastewater, or residuals shall obtain permits as provided in 10 CSR 20-6.015.

(B) Applications.

1. An application for an operating permit must be submitted on forms provided by the department. The applications may be supplemented with copies of information submitted for other federal or state permits. The application shall include:

- A. A map showing the location of all outfalls, with scale, as well as a flowchart indicating each process which contributes to an outfall;
- B. Appropriate permit fee according to 10 CSR 20-6.011;
- C. An antidegradation review for new and expanding discharging facilities;
- D. A geohydrological evaluation conducted by the department's Missouri Geological Survey for new and expanded facilities;
- E. If appropriate, a variance petition, with the information detailed in section (14) of this rule; and
- F. Engineering certification that the project was designed to meet the requirements of 10 CSR 20-8 for projects exempted from construction permitting requirements in section (5) of this rule.

2. All applications must be signed as follows:

- A. For a corporation, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by an individual having overall responsibility for environmental matters at the facility;
- B. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or
- C. For a municipal, state, federal, or other public facility, by either a principal executive officer or by an individual having overall responsibility for environmental matters at the facility.

3. The permittee shall provide written notice to the department as soon as possible of any planned physical alterations or additions to the permitted wastewater treatment facility.

(C) Applications for renewal of site-specific operating permits must be received at least one hundred eighty (180) days either before the expiration date of the present site-specific operating permit or the date the facility begins to receive wastewater unless permission for a later date has been granted by the department. The department will not grant permission for applications to be submitted later than the expiration date of the existing permit.

(D) For facilities seeking coverage under a general operating permit, the application for renewal shall be submitted according to Section 644.051.13, RSMo.

(E) All reports required by the department shall be submitted and signed by a person designated in paragraph (7)(A)2. of this rule or a duly authorized representative, if—

1. The representative so authorized is responsible for the overall operation of the facility from which the discharge occurs; and

2. The authorization is made in writing by a person designated in paragraph (7)(A)2. of this rule and is submitted to the department.

(8) Terms and Conditions of Permits.

(A) The following shall be incorporated as terms and conditions of all permits:

1. All discharges and *[sludge] solids* disposal shall be consistent with the terms and conditions of the permit;

2. The permit may be modified or revoked after thirty (30) days' notice for cause including, but not limited to, the following causes:

- A. A violation of any term or condition of the permit;
- B. A misrepresentation or failure to fully disclose all relevant facts in obtaining a permit;
- C. A change in the operation, size, or capacity of the permitted facility; and
- D. The permit may be modified after proper public notice and opportunity for comment when a wasteload allocation study has been completed showing that more stringent limitations are necessary to protect the in-stream water quality;

3. The permit may not be modified so as to extend the term of the permit beyond five (5) years after its issuance;

4. Permittees shall operate and maintain facilities to comply with the Missouri Clean Water Law and applicable permit conditions and regulations. *[Operators or supervisors of operations at regulated wastewater treatment facilities shall be certified in accordance with per 10 CSR 20-9.020(2) and any other applicable state law or regulation. Operators of other wastewater treatment facilities, water contaminant source, or point sources, upon request of the Department, shall demonstrate that wastewater treatment equipment and facilities are effectively operated and maintained by competent personnel;]*

5. *[For the purpose of inspecting, monitoring, or sampling the point source, sludge, water contaminant source, or wastewater treatment facility for compliance with the Clean Water Law and these regulations, authorized representatives of the Department shall be allowed by the permittee, upon presentation of credentials and at reasonable times, to—]* The permittee, owner, and continuing authority shall allow the department or an authorized representative (including an authorized contractor acting as a representative of the department), upon presentation of credentials to, at reasonable times—

A. Enter upon permittee's premises in which a point source, water contaminant source, or wastewater treatment facility is located or in which any records are *[required to be]* kept *[under]* according to the terms and conditions of the permit;

B. Have access to, or copy, any records *[required to be]* that are kept *[under]* according to the terms and conditions of the permit;

C. Inspect any *[monitoring equipment or method required in the permit;]* facilities, equipment (including monitoring and control equipment), practices, or operations regulated

or required under a permit; and

D. *[Inspect any collection, treatment, or discharge facility covered under the permit; and] Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or Missouri Clean Water Law, any substances or parameters at any location.*

[E. Sample any wastewater or sludge at any point in the collection system or treatment process;]

6. If the permit is for a discharge from a publicly-owned treatment works, the permittee shall give **adequate** notice to the department of *[any new introduction of pollutants or any substantial change in the character or volume of nondomestic pollutants already being introduced. Notice shall include] the following:*

[A. The origin, quality, and quantity of pollutants to be introduced into the publicly-owned treatment works; and

B. Any anticipated impact on the quality and quantity of the effluent to be discharged or on the quality or quantity of the sludge to be disposed of by the treatment works;]

A. Any new introduction of pollutants into the treatment facility from an indirect discharger which would be subject to Sections 301 or 306 of the Federal Clean Water Act if it were directly discharging those pollutants;

B. Any substantial change in the volume or character of pollutants being introduced into that treatment facility at the time of issuance of the permit; and

C. For purposes of this subparagraph, adequate notice includes information on the following:

(I) The quality and quantity of influent introduced into the treatment facility, and

(II) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the treatment facility;

7. If the permit is for a discharge from a publicly-owned treatment works, the permittee shall be able to identify any introduction of pollutants or substances into the facility that alone or in combination will cause—disruption of the treatment processes, violation of effluent standards *[as defined]* in their operating permit, violation of water quality standards in the receiving stream as defined in 10 CSR 20-7.031, or classification of the residues of the treatment processes as hazardous waste as defined in 10 CSR 25-4.010. In addition, the permittee shall require any industrial user of the treatment *[works] facility* to comply with the requirements of 10 CSR 20-6.100;

8. If a toxic effluent standard, prohibition, or schedule of compliance is established under Section 307(a) of the Federal Clean Water Act for a toxic pollutant in the discharge of permittee's facility and the standard is more stringent than the limitations in the permit, then upon notice to the permittee the more stringent standard, prohibition, or schedule shall be incorporated into the permit as *[one (1) of its conditions] a condition; and*

[9. Facility expansions, production increases, or process modifications which will in a new or substantially different discharge or sludge characteristics must be reported sixty (60) days before the facility or process modification begins. Notification may be accomplished by application for a new permit, or if the discharge does not violate effluent limitations specified in the permit, by submission of notice to the Department of the changed discharge; and]

[10.]9. When a continuing authority under paragraph [(3)](2)(B)1., 2., or 3. is expected to be available for connection [within the next five (5) years], any operating permit issued to a permittee under this paragraph, located within the service area of the paragraph [(3)](2)(B)1., 2., or 3. facility, shall contain the following special condition: [The tributary wastewater flow shall be connected to the continuing authority listed in paragraph (3)(B)1. or 2. within ninety (90) days of notice of availability by the continuing authority.] Permittee shall cease discharge by connection to a facility with an area-wide management plan according to

subsection (2)(B) of this rule within the timeframe allotted by the continuing authority with its notice of its availability. The permittee shall obtain departmental approval for closure **according to section (11) of this rule** or alternate use of these facilities.

(B) The permit shall contain effluent limitations, *[and] monitoring requirements. Other], and terms and conditions [shall be incorporated into permits if the department determines they are]* necessary to assure compliance with the Clean Water Law, related regulations or policies of the Missouri Clean Water Commission.

(9) Prohibitions. No permit shall be issued in the following circumstances:

(A) Where the terms and conditions of the permit do not comply with applicable guidelines or requirements, the Missouri Clean Water Law and Clean Water Commission regulations or the Federal Clean Water Act and federal regulations;

(B) Where the EPA regional administrator has properly objected to the issuance of a permit *[by the director];*

(C) Where the permit conditions cannot ensure compliance with the applicable water quality requirements of all other affected states;

(D) *[Where, in the judgment of the secretary of the army acting through the appropriate district engineer, anchorage and navigation would be substantially impaired;] Where anchorage and navigation would be substantially impaired based on the judgement of the US Army Corps of Engineer's district engineer;*

(E) For the discharge of any radiological, chemical, or biological warfare agent or high level radioactive waste;

(F) For any discharge *[from a point source]* inconsistent with a plan or plan amendment approved under Section 208(b) of the Federal Clean Water Act; or

(G) To a facility which is a new source or a new discharger, if the discharge from the construction or operation of the facility will—

1. Cause or contribute to the violation of water quality standards if the *[point of]* discharge is located in a segment that was an effluent limitation segment, prior to the introduction of the discharge from the new source or *[new]* discharger; or

2. Exceed its pollutant load allocation if the discharge is into a water quality limited segment.

(10) Operating Permit Renewal and Expiration Dates.

(A) *[The first operating permit issued to new sources and new dischargers will be issued for a period of time sufficient only to allow the completion of construction of the facility, but not to exceed five (5) years, but not less than one (1) year. When all construction has been completed, the first] Missouri State* operating permits may be issued for a period not to exceed five (5) years.

(B) Whenever a release or a potential for release from a point source, water contaminant source, or wastewater treatment facility is permanently eliminated, the existing operating permit will be terminated *[upon verification by the department].*

[(C) Where a person has the permit responsibility for more than one (1) wastewater treatment facility, water contaminant source, or point source involving more than one (1) operating permit, the Department may combine the billings by issuing all operating permits with the same expiration date. Each facility shall continue to operate under and be governed by the separate provisions of each individual permit.

(D) When a check used for an application fee is returned to the Department as nonnegotiable, review of the application shall cease and the applicant be notified. No further action shall be taken on the application until the fees have been resubmitted in the form of a cashier's check or money order payable to the state of Missouri.]

[(E)](C) Continuation of Expiring Permits.

1. The terms and conditions of an expired permit are continued

automatically pending issuance of a *[new]* renewed operating permit if—

A. The permittee *[has]* submitted a timely and sufficient application for a *[new]* renewed operating permit under this rule; and

B. The department is unable, through no fault of the permittee, to issue a *[new]* renewed operating permit before the expiration date of the previous permit.

2. Permits continued under paragraph (10)/(E)/(C)1. remain fully effective and enforceable.

(11) Permits Transferable.

(A) Subject to subsection [(3)](2)(A), a construction permit and/or operating permit may be transferred upon submission to the department of an application to transfer signed by the existing owner and/or continuing authority and the new owner and/or continuing authority.

1. Until the time the permit is officially transferred, the original permittee remains responsible for complying with the terms and conditions of the existing permit.

2. To receive a transfer permit, the new owner and/or continuing authority must complete an application according to section (4) and/or section (7) of this rule and demonstrate to the department that the new *[organization is permanent and will serve as the continuing authority for the operation, maintenance, and modernization of the facility]* continuing authority agrees to be responsible for compliance with the permit.

3. The new owner and/or continuing authority shall be responsible for complying with the terms and conditions of the permit upon transfer.

(B) The department, within thirty (30) days of receipt of the application, *[shall]* will notify the new applicant of its *[intent]* decision to revoke and reissue or transfer the permit.

(C) For facilities with construction and/or operating permits that the department is unable to reissue the operating permit within thirty (30) days of the transfer application, the construction and/or operating permit may be transferred to the new permittee if:

1. The current permittee notifies the department at least thirty (30) days in advance of the proposed transfer date;

2. The notice includes a complete application for transfer between the existing and new permittees containing a specific date for transfer of construction and/or permit responsibility, coverage, and liability between them; and

3. The department does not notify the existing permittee and the proposed new permittee of its decision to revoke and reissue or transfer the operating permit. If no objection is received from the department within thirty (30) days of receipt of the notice, the transfer is effective on the date specified in the agreement.

(12) Closure of Treatment Facilities.

(A) Persons who cease operation or plan to cease operation of waste, wastewater, and sludge handling and treatment facilities shall close the facilities in accordance with a closure plan approved by the department.

(B) Closure plans shall address wastewater and sludge removal, dewatering activities, removal of treatment structures, removal of solid waste, or leaving in place as clean fill, site grading and site shaping so that ponding does not occur.

(C) Closure plans shall be submitted to the department no later than ninety (90) days after ceasing operations. The permittee, owner, and/or responsible party shall complete closure activities within the timeframe provided in the closure plan.

[(B)](D) Operating permits under section [(5)] (7) of this rule or under 10 CSR 20-6.015 are required until all waste, wastewater, *[and]* wastewater solids/sludges and any solid wastes have been disposed of in accordance with the closure plan approved by the department under subsection [(12)](11)(A) of this rule, and any disturbed areas have been properly stabilized.

(13) General Operating Permits.

(A) The *[director]* department may issue a general operating permit in accordance with the following:

1. The general operating permit *[shall be written to]* covers a category of discharges described in the permit except those covered by *[individual]* site-specific permits within a geographic area. The area *[shall]* corresponds to existing geographic or political boundaries, such as—

A. Designated planning areas under Sections 208 and 303 of the Federal Clean Water Act;

B. City, county, or state political boundaries, or special sewer districts *[chartered by the state]*;

C. State highway systems; and

D. Any other appropriate division or combination of boundaries; and

2. The general operating permit *[shall be written to]* regulates a category of point sources if the sources all—

A. Involve the same or substantially similar types of operations;

B. Discharge the same types of wastes/wastewaters;

C. Require the same effluent limitations or operating conditions;

D. Require the same or similar monitoring; and

E. Are controlled more appropriately, in the opinion of the *[director]* department, under a general operating permit than under *[individual]* site-specific permits.

(B) General operating permits may be issued, modified, revoked, and reissued or terminated in accordance with applicable requirements of this regulation. To be included under a general operating permit, *[a permittee must]* submit an application on forms supplied by the department.

(C) The *[director]* department may require any person authorized by a general operating permit to apply for and obtain a *[n individual]* site-specific operating permit. Any interested person may petition the *[director]* department to take action under this subsection. Cases where a *[n individual]* site-specific operating permit may be required to include, but are not limited to, the following:

1. The discharge(s) is a significant contributor of pollution which impairs the beneficial uses of the receiving *[stream]* water;

2. The discharger is not in compliance with the conditions of the general operating permit; and

3. A Water Quality Management Plan containing requirements applicable to these point sources is approved by the department.

(D) Any owner/*[operator]* continuing authority authorized by a general operating permit may request to be excluded from the coverage of the general operating permit by applying for a *[n individual]* site-specific permit. *[As indicated in section (2) of this rule, the owner/operator shall submit, to the director, an application with reasons supporting the request. The request shall be granted by issuing any individual permit if the reasons cited by the owner/operator are adequate to support the request.]*

1. When a *[n individual]* site-specific operating permit is issued to an owner/*[operator]* continuing authority otherwise subject to a general operating permit, the applicability of the general operating permit *[to the individual operating permittee]* is terminated automatically on the effective date of the *[individual]* site-specific permit.

2. A source excluded from a general operating permit solely because it already has a *[n individual]* site-specific permit may request that the *[individual]* site-specific permit be revoked and that it be covered by the general operating permit, if it meets all the requirements for coverage. *[Upon revocation of the individual permit, the general permit shall apply to the source. The source shall be included under the general permit only if it meets all the requirements for coverage under the permit.]*

(E) The department may require any person applying for a site-specific permit to obtain a general operating permit.

[(14) Permit by Rule. The Department shall petition the Clean Water Commission to reopen this rule for public review and comment on a five- (5-) year interval.

(A) Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new petroleum-related oil and gas pipelines and storage tanks in the state of Missouri may discharge to waters of the state without first obtaining a permit if the discharge is de minimis (less than one thousand (<1,000) gallons) or the person takes the following steps:

1. Notification. The owner/operator must notify the Department in writing of its intent to conduct hydrostatic test discharge(s) under this rule at least thirty (30) days prior to the first such discharge. This requirement may be met by a one- (1-) time annual notification. Notice shall specify the source of water to be used in the hydrotest and shall identify the location(s) of the pipeline(s) and/or tank(s) to be tested.

2. Filing fee. Persons who intend to discharge in accordance with section (14) of this rule must pay a filing fee [of twenty-five dollars (\$25) to the Department with their notification above.

3. Discharge limits. The discharge must meet the following limits: <10 mg/l total petroleum hydrocarbons, <100 mg/l total suspended solids, and equal to or between 6.0 and 9.5 standard units pH.

4. Sampling and testing requirements. One (1) grab sample shall be taken per discharge during the first sixty (60) minutes of the discharge. The sample shall be analyzed for the pollutants limited by this rule. Sampling and analysis shall be performed in accordance with 10 CSR 20-7.015(9)(A). Total discharge volume shall be documented for each hydrostatic test discharge.

5. Analytical report. The owner/operator of the pipeline(s) and/or storage tank(s) on which the hydrostatic tests are performed shall submit an annual report summarizing each discharge, including date, time, test location, analytical results, and total discharge volume, in gallons, by October 28, of each year.

6. Exception reporting. If any of the sampling results from the hydrostatic test discharge show any violations of the following discharge limitations, written notification shall be made to the Department within five (5) days of notification of analytical results. Notification shall indicate the date(s) of sample collection, the analytical results, and a statement concerning the revisions or modifications in management practices that are being implemented to address the violation of the limitation that occurred.

A. <10 mg/l total petroleum hydrocarbons.

B. <100 mg/l total suspended solids.

C. pH equal to or between 6.0 and 9.5 standard pH units.

7. General requirement. The hydrostatic testing water shall not contain dyes or have a visible sheen indicating the presence of petroleum products.

8. Any person who irrigates wastewater from a hydrostatic test may do so under this rule if the notification, filing fee, and annual reporting requirements of paragraphs (4)(A)1.,- 2., and 4. are met and the irrigation does not result in any discharge to waters of the state. The quality of the irrigated wastewater is not required to meet the limits stated in paragraph (14)(A)6. of this rule.

9. The quality of wastewater from a hydrostatic test that is discharged directly to the Mississippi or Missouri Rivers must meet the limits stated in paragraph (14)(A)6. of this rule with the exception of pH which shall be within a range between 6 and 10.

(B) The department may require a permit for these discharges if it determines that requiring a permit may better protect the quality of waters of the state.

(C) The person(s) discharging under this rule may apply for a permit at any time.

(D) This rule does not supersede nor eliminate liability for compliance with county and other local ordinances.

(E) Persons discharging under this rule are not required to obtain a separate permit to construct and operate an oil-water separator to aid in meeting limits for hydrostatic wastewater.

(F) The department shall maintain records open to the public on all persons claiming coverage under permit by rule. Appeals of permits in accordance with 10 CSR 20-6.020(6) may be received by the Department up to thirty (30) days from the date the Department received notice from the discharger.]

(14) Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new pipelines and storage tanks are exempt from permitting if the discharge is de minimis (less than one thousand (<1,000) gallons) or the person takes the following steps:

(A) Discharge Limits. The discharge must meet the following limits:

1. 100 mg/L total suspended solids;

2. pH:

A. Missouri or Mississippi Rivers, in the range from 6.0 to 10.0 standard units; or

B. All other waters, in the range from 6.5 to 9.0 standard units;

3. 0.32 mg/l ethylbenzene;

4. 0.005 mg/L benzene;

5. 1.0 mg/L toluene; and

6. 10.0 mg/L xylene.

(B) Sampling and testing requirements. One (1) grab sample shall be taken per discharge during the first sixty (60) minutes of the discharge and be analyzed for the pollutants listed in (1)(A) of this rule as well as total discharge volume in gallons per day.

(C) Exception reporting. If any of the sampling results from the hydrostatic test discharge show any exceedance of (1)(A) limits, provide written notification, including the date of the sample collection, the analytical results, and a statement concerning the modifications in management practices that are being implemented to address the violation within five (5) days of notification of analytical results to the department.

(D) The hydrostatic testing water shall not contain dyes or have a visible sheen indicating the presence of petroleum products.

(E) Any person who irrigates wastewater from a hydrostatic test may do so under this rule if the irrigation does not result in any discharge to waters of the state. The quality of the irrigated wastewater is not required to meet the limits in (1)(A).

(F) Persons discharging under this exemption are not required to obtain a separate permit to construct and operate an oil-water separator to aid in meeting limits for hydrostatic wastewater.

(15) Variance Request Process.

(A) Water Quality Standards Variance. Any person, permittee, or group of permittees seeking a variance shall file a petition for variance with the department according to 40 CFR 131.14, as published August 21, 2015 by the EPA Docket Center, EPA West 1301 Constitution Avenue NW., Washington, DC 20004. This rule does not incorporate any subsequent amendments or additions.

(B) Non-water Quality Standard Variance. Any person, permittee, or group of permittees seeking a variance shall file a petition for variance with the department according to Section 644.061, RSMo.

(C) Provisional Variance.

1. A provisional variance is a short term, time limited reprieve from limitations, rules, standards, requirements, or order of the director because of conditions beyond the reasonable control

of the permittee, would result in an arbitrary or unreasonable hardship, and the compliance costs are substantial and reasonably certain.

2. In accordance with 644.062, RSMo, any person or permittee may apply for a provisional variance for limitations, rules, standards, requirements, or orders from the department pursuant to 644.006 through 644.141, RSMo. A provisional variance may not be granted under this regulation for limitations, rules, standards, requirements, or orders from the department pursuant to other statutes. The application for a provisional variance needs to include information in accordance with subsection (15)(A) of this rule.

3. The provisional variance is issued by the department and may be retroactively applied upon permittee request. If a provisional variance is granted, notice will be given using the same method prescribed for operating permits issued by the department in 10 CSR 20-6.020. The department will promptly notify the applicant of the decision in writing and file the decision with the Missouri Clean Water Commission. Granting of a provisional variance is documentation of the department's enforcement discretion. There is no public notice period prior to issuance of a provisional variance. If retroactively granted, the permittee shall submit appropriate modified reports (such as discharge monitoring or those prescribed in a permit) within twenty (20) days of the provisional variance issuance date.

4. Provisional variances will not be granted for the following:

A. In the department's judgement said variance would endanger public health, cause significant harm to aquatic life or wildlife, result in damage to property, or other demonstrable and measurable harm to downstream interests;

B. In anticipation of Federal approval of any changes to a state water quality standard;

C. From the requirement to obtain a permit for an activity, in accordance with 10 CSR 20-6 and Section 644, RSMo;

D. To allow an activity which would otherwise require a permit to begin before the department issues or denies a permit; or

E. To allow a facility to exceed a permit limitation while the department considers an application to modify the permit limitation.

5. A provisional variance may be issued for up to forty-five (45) days, and may be extended once for up to an additional forty-five (45) days. The appropriate length of the provisional variance will be determined at the discretion of the department.

A. Provisional variances may be issued for periods less than forty-five (45) days, or terminated earlier than the length of time specified at issuance, at the permittee's request (assuming that the variance is no longer essential for compliance).

B. The provisional variance may be granted subject to conditions determined necessary by the department. In order to qualify for an extension, a demonstration that the conditions under which the previous variance were granted still exist or are substantially similar.

C. In no case shall a provisional variance be granted to the same facility for more than ninety (90) days within the same calendar year.

6. Should a facility apply for multiple provisional variances or a single variance for the maximum ninety (90) days allowed, a long term plan to eliminate the need for relief from the same limit, rule, standard, requirement, or order, subject to the restrictions set forth above, needs to accompany the request in order for the application to be considered complete.

7. If the provisional variance is issued for a delay of implementation of limitations, rules, standards, requirements, or orders from the department to correct a violation, section 644.042, RSMo, requires the applicant post a performance bond or other security to assure completion of the work covered by the

variance. The proof of financial responsibility may be in the form of a surety bond, CD, or irrevocable letter of credit and be subject to the following:

A. The bond is signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri;

B. The bond remains in effect until the terms and conditions of the variance are met and rules and regulations promulgated pursuant thereto are complied with;

C. It is on file with the department;

D. It is made payable to the department; and

E. If the bond, CD, or letter of credit is cancelled by the issuing agent, submit new proof of financial responsibility within thirty (30) days of cancellation, or the provisional variance will be cancelled.

AUTHORITY: sections 640.710 and 644.026, RSMo [2000] 2016. Original rule filed June 6, 1974, effective June 16, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Leasue Meyers, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through e-mail to leasue.meyers@dnr.mo.gov. Public comments must be received by August 23, 2018. The public hearing is scheduled for 10 AM, on August 15, 2018, at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring Conference Room, 1730 East Elm Street, Jefferson City, Missouri 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 6—Permits

PROPOSED AMENDMENT

10 CSR 20-6.011 Fees. The department is amending the purpose and section (1) to delete text, add (1)(G), and renumber this section; delete (2)(A) and renumber this section; delete duplicative language in (3)(A), delete (3)(B) and (3)(C), and renumber this section, and remove reference to Appendix A.

PURPOSE: The department is amending this rule to comply with Executive Order 17-03 under the Red Tape Reduction Initiative and to improve clarity of the rule, reduce redundancy, errors, and unneeded or overly burdensome requirements, address conflicts that exist between the regulation, statutes, and other regulations, and remove references to Appendix A that was removed in 2014.

PURPOSE: This regulation explains how the Department of Natural Resources implements fees authorized by the Missouri Clean Water Law. It sets the procedures for collection of fees from permit holders. Fees are collected for state operating permits, several permits, and construction permits. [An appendix to the rule reflects the range of fees that is established under the Missouri Clean Water Law.]

(1) Fees—General.

(A) *[Until December 31, 2014, all persons who build, erect, alter, replace, operate, use, or maintain wastewater treatment facilities shall pay the appropriate fees as designated in sections 644.051 to 644.057, RSMo.]* Pursuant to section 644.057, RSMo, beginning on January 1, 2015, *[such persons]* **all persons who build, erect, alter, replace, operate, use, or maintain wastewater treatment facilities shall pay the appropriate fees prescribed by this rule *[(see Appendix A)]*.**

(B) Definitions.

1. Adjusted design flow. The actual average wastewater flow from a human sewage treatment system. If the average flow is sixty percent (60%) or less than the system's design flow, the average flow may be substituted for the design flow when calculating the permit fee on human sewage treatment facilities *[in Appendix A of this rule]*.

2. Definitions as set forth in the Missouri Clean Water Law and 10 CSR 20-2.010 *[shall]* apply to those terms when used in this regulation.

[3. Human sewage. Human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances.]

*[4.]*3. Industrial process wastewater. This term as used in section 644.052, RSMo means any water, including storm water, that is regulated under 10 CSR 20-6.200, during manufacturing or processing, which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

*[5.]*4. Privately-owned treatment works. A treatment works serving a residential area, restaurant, commercial concern, or other operation that only produces domestic sewage as defined in section 701.025, RSMo.

(C) *[The fees referenced in subsection (1)(A) shall be paid by check, money order, or credit card, made payable to the state of Missouri.]* **Submit fees associated with this rule to the Missouri Department of Natural Resources.** In the event a check used for the payment of operating fees is returned to the department marked insufficient funds, the person forwarding the check shall be given fifteen (15) days to correct the insufficiency. If payment has not been corrected after fifteen (15) days, the person may be referred to the attorney general's office and assessed late penalties, pursuant to section 644.055, RSMo. When a check used for the payment of a construction fee is returned to the department marked insufficient funds, review of the application shall cease and the applicant shall be notified. If the insufficiency is not corrected after ten (10) days, the application shall be returned as incomplete.

[(D)] Annual operating fees shall be submitted to: Department of Natural Resources, Water Protection Program, PO Box 176, Jefferson City, MO 65102 and construction fees shall be submitted with the application for the construction permit to Department of Natural Resources, Water Protection Program, PO Box 176, Jefferson City, MO 65102.]

[(E)](D) Each payment shall identify the following: National Pollutant Discharge Elimination System (NPDES) permit number, payment period, and applicant, or the permittee name and address. Persons who own or operate more than one (1) facility may submit one (1) check to cover all annual permit fees, but are responsible for submitting the appropriate information to allow proper credit of each permit account.

[(F)](E) Annual fees shall be paid in full on their due date *[as defined in section (2) and subsections (3)(A) and (4)(A)]*. Permittees who only discharge intermittently, seasonally, or for a short period of time must pay the entire annual fee. Fees are annual fees and may not be prorated. In the event the discharge is eliminated, the permittee is responsible for requesting termination of the permit. When permits are revoked or denied, the annual fees are forfeit-

ed. It is unlawful to discharge water contaminants into waters of the state without a permit.

[(G)](F) Annual fees are the responsibility of the permittee. Failure to receive a statement due to mailing errors, change of address, ownership changes or other reason(s) is not an excuse for failure to remit the fees. Penalties shall be charged as provided in section 644.055, RSMo.

(G) **Where a person has the permit responsibility for more than one (1) operating permit, the department may combine the billings by issuing all operating permits with the same expiration date. Each facility will continue to operate under and be governed by the separate provisions of each individual permit.**

(2) Fees—Amounts.

[(A)] Persons with operating permits, including but not limited to site-specific permits, general permits, or permits by rule issued pursuant to this chapter shall pay fees pursuant to subsections (B) to (F) of this section. Persons with a sewer service connection to public sewer systems owned or operated by a city, public sewer district, public water district, or other publicly owned treatment works shall pay fees pursuant to subsection (G) of this section. Persons requesting a permit modification shall pay fees pursuant to subsection (H) of this section. Persons requesting water quality certification shall pay fees pursuant to subsection (I) of this section. Persons requesting an anti-degradation review shall pay fees pursuant to subsection (J) of this section. Persons requesting a construction permit shall pay fees pursuant to subsection (K) of this section.]

[(B)](A) A privately owned treatment works or an industry which treats only human sewage shall annually pay a fee based upon the design flow of the facility as follows:

1. One hundred fifty dollars (\$150) if the design flow is less than five thousand (5,000) gallons per day;

2. Three hundred dollars (\$300) if the design flow is equal to or greater than five thousand (5,000) gallons per day but less than ten thousand (10,000) gallons per day;

3. Six hundred dollars (\$600) if the design flow is equal to or greater than ten thousand (10,000) gallons per day but less than fifteen thousand (15,000) gallons per day;

4. One thousand dollars (\$1,000) if the design flow is equal to or greater than fifteen thousand (15,000) gallons per day but less than twenty-five thousand (25,000) gallons per day;

5. One thousand five hundred dollars (\$1,500) if the design flow is equal to or greater than twenty-five thousand (25,000) gallons per day but less than thirty thousand (30,000) gallons per day;

6. Three thousand dollars (\$3,000) if the design flow is equal to or greater than thirty thousand (30,000) gallons per day but less than one hundred thousand (100,000) gallons per day.

7. Four thousand dollars (\$4,000) if the design flow is equal to or greater than one hundred thousand (100,000) gallons per day but less than two hundred fifty thousand (250,000) gallons per day; or

8. Five thousand dollars (\$5,000) if the design flow is equal to or greater than two hundred fifty thousand (250,000) gallons per day.

[(C)](B) Persons who produce industrial process wastewater which requires treatment and who apply for or possess a site-specific permit shall annually pay—

1. Five thousand dollars (\$5,000) if the industry is a class IA concentrated animal feeding operation as defined by the commission; or

2. For facilities issued operating permits based upon categorical standards pursuant to the Federal Clean Water Act and regulations implementing such act:

A. Four thousand two hundred dollars (\$4,200) if the design flow is less than one (1) million gallons per day; or

B. Five thousand dollars (\$5,000) if the design flow is equal to or greater than one (1) million gallons per day.

[(D)](C) Persons who apply for or possess a site-specific permit

solely for industrial storm water shall pay an annual fee of:

1. One thousand eight hundred dollars (\$1,800) if the design flow is less than one (1) million gallons per day; or

2. Two thousand eight hundred dollars (\$2,800) if the design flow is equal to or greater than one (1) million gallons per day.

~~[(E)]~~**(D)** Persons who produce industrial process wastewater who are not included in subsections ~~[(2)]~~**(C)** ~~(2)~~**(B)** or ~~[(2)]~~**(D)** ~~(2)~~**(C)** of this section shall annually pay—

1. One thousand eight hundred dollars (\$1,800) if the design flow is less than one (1) million gallons per day; or

2. Three thousand dollars (\$3,000) if the design flow is equal to or greater than one (1) million gallons per day.

~~[(F)]~~**(E)** Persons who apply for or possess a general permit or permit by rule shall pay—

1. For the discharge of storm water from a land disturbance site—

A. Five hundred dollars (\$500) if the site is at least one (1) acre and less than five (5) acres;

B. Six hundred dollars (\$600) if the site is equal to or greater than five (5) acres but less than ten (10) acres;

C. Seven hundred fifty dollars (\$750) if the site is equal to or greater than ten (10) acres but less than twenty-five (25) acres;

D. One thousand five hundred dollars (\$1,500) if the site is equal to or greater than twenty-five (25) acres but less than one hundred (100) acres;

E. Three thousand dollars (\$3,000) if the site is equal to or greater than one hundred (100) acres but less than five hundred (500) acres; or

F. Five thousand dollars (\$5,000) if the site is equal to or greater than five hundred (500) acres; and

G. Any permit issued to a public agency or private party for multiple sites shall pay a single fee based upon the estimated acreage of all the sites as follows:

(I) One thousand five hundred dollars (\$1,500) if the sites are less than one hundred (100) acres;

(II) Three thousand dollars (\$3,000) if the sites are equal to or greater than one hundred (100) acres but less than five hundred (500) acres; or

(III) Five thousand dollars (\$5,000) if the sites are equal to or greater than five hundred (500) acres;

2. One hundred dollars (\$100) annually for the operation of a chemical fertilizer or pesticide facility;

3. For the operation of an animal feeding operation or a concentrated animal feeding operation—

A. Five thousand dollars (\$5,000) per year for a national pollutant discharge elimination system permit or a Missouri state operating permit for a class IA concentrated animal feeding operation as defined by the commission;

B. Four hundred fifty dollars (\$450) per year for a national pollutant discharge elimination system permit for a class IB concentrated animal feeding operation as defined by the commission;

C. Three hundred fifty dollars (\$350) per year for a national pollutant discharge elimination system permit for a class IC or class II concentrated animal feeding operation as defined by the commission;

D. Three hundred dollars (\$300) per year for a Missouri state operating permit for a class IB concentrated animal feeding operation as defined by the commission; or

E. One hundred fifty dollars (\$150) per year for a Missouri state operating permit for a class IC or class II concentrated animal feeding operation as defined by the commission;

4. Two hundred fifty dollars (\$250) annually for the discharge of storm water from a municipal separate storm sewer system (MS4);

5. Three hundred dollars (\$300) annually for the operation of an aquaculture facility;

6. For discharging publicly owned treatment works which treats only human sewage shall annually pay the fee in subsection ~~[(G)]~~**(F)** based upon the number of service connections to the facility;

7. One hundred fifty dollars (\$150) annually for a permit by rule and for a pesticide applicator permit.

8. Two hundred dollars (\$200) annually for a permit for the discharge of process water or storm water, potentially contaminated by activities not included in paragraphs 1. to 7. of this subsection.

~~[(G)]~~**(F)** Persons with a direct or indirect sewer service connection to a public sewer system owned or operated by a city, public sewer district, public water district, other publicly owned treatment works, or any district formed pursuant to the provisions of section 30(a) of Article VI of the *Missouri Constitution* shall pay an annual fee per water service connection as provided in this subsection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than a total of seven hundred dollars (\$700) per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly, or annual increments, and shall be remitted to the department no less frequently than annually. The fees collected shall not exceed the amounts specified in this subsection and, except as provided in paragraph 7. of this section, shall be collected at the specified amounts unless adjusted by the commission in rules. The annual fees shall be—

1. For customers of sewer systems that serve more than thirty-five thousand (35,000) customers, forty-eight cents (\$0.48);

2. For customers of sewer systems that serve equal to or less than thirty-five thousand (35,000) but more than twenty thousand (20,000) customers, sixty cents (\$0.60);

3. For customers of sewer systems that serve equal to or less than twenty thousand (20,000) but more than seven thousand (7,000) customers, seventy-two cents (\$0.72); or

4. For customers of sewer systems that serve equal to or less than seven thousand (7,000) customers, eighty cents (\$0.80);

5. Three dollars and forty-two cents (\$3.42) for commercial or industrial customers not served by a public water system as defined in Chapter 640, **RSMo**;

6. Three dollars (\$3) per water service connection for all other customers with water service connections of less than or equal to one (1) inch excluding taps for fire suppression and irrigation systems;

7. Eleven dollars (\$11) per water service connection for all other customers with water service connections of more than one (1) inch but less than or equal to four (4) inches, excluding taps for fire suppression and irrigation systems; or

8. Twenty-nine dollars (\$29) per water service connection for all other customers with water service connections of more than four (4) inches, excluding taps for fire suppression and irrigation systems.

~~[(H)]~~**(G)** For the purpose of permit modification fees, non-substantive changes are those listed as minor modifications in 40 CFR section 122.63. Persons requesting modifications to state operating permits that charge a service connection fee shall pay two hundred dollars (\$200). Persons requesting a modification to an operating permit shall pay:

1. One hundred dollars (\$100) for name changes, address changes, or other non-substantive changes, or for a modification of a general permit; or

2. A fee equal to twenty-five percent (25%) of the annual operating fee assessed for the facility for other changes;

~~[(I)]~~**(H)** Persons requesting water quality certifications in accordance with Section 401 of the Federal Clean Water Act shall pay a fee of—

1. One hundred fifty dollars (\$150) for a project that requires a Finding of No Significant Impact or other documentation pursuant to the federal National Environmental Policy Act, but does not require an environmental impact statement; or

2. One thousand five hundred dollars (\$1,500) for a project that does require an environmental impact statement, pursuant to the federal National Environmental Policy Act. Applicants shall submit the standard application form for a Section 404 permit as administered

by the U.S. Army Corps of Engineers or similar information required for other federal licenses and permits, except that the fee is waived for water quality certifications issued to and accepted by the U.S. Army Corps of Engineers for activities authorized pursuant to a general permit or nationwide permit issued pursuant to section 404 of the ~~the~~ Federal Clean Water Act.

[(J)](I) Persons applying for an anti-degradation review shall pay a fee as follows:

1. Two hundred fifty dollars (\$250) for an anti-degradation review or a water quality review analysis for an existing wastewater treatment plant that will be upgraded;

2. Five hundred dollars (\$500) for an anti-degradation review for a new wastewater treatment plant if the design flow is less than one hundred thousand (100,000) gallons per day; or

3. One thousand dollars (\$1,000) for an anti-degradation review for a new wastewater treatment plant if the design flow is equal to or more than one hundred thousand (100,000) gallons per day;

[(K)](J) Persons applying for a construction permit shall pay fee as follows. The applicant shall pay only the highest appropriate fee pursuant to paragraphs 1. to 3. of this subsection, regardless of the extent of additional planned construction as part of the same application.

1. One thousand dollars (\$1,000) for a construction permit for a wastewater treatment plant if the design flow is less than five hundred thousand (500,000) gallons per day;

2. Three thousand dollars (\$3,000) for a construction permit for a wastewater treatment plant if the design flow is equal to or more than five hundred thousand (500,000) gallons per day; or

3. Three hundred dollars (\$300) for a construction permit for a sewer extension of more than one thousand feet (1,000 ft) in length or have two (2) or more lift stations.

[(L)](K) Persons applying for a variance shall pay a fee of two hundred fifty dollars (\$250).

(3) Operating Fees.

(A) All persons who are subject to fees under section 644.052.2, 644.052.4, or 644.052.5, RSMo, shall remit their first annual fee with their original application and pay an annual fee each year on the anniversary date of their permit. Permittees with permits in effect at the time these sections become effective shall remit annual fees on the anniversary date of the permit. *[Persons whose permit is renewed during the duration of these fees shall submit a renewal application one hundred eighty (180) days before their permit expires, but the annual fee shall be paid on the anniversary date.]* The permit issue date that was in effect on October 1, 1990 shall be the anniversary date during the effective period of section 644.052, RSMo.

[(B)] Persons with a direct or indirect sewer service connection to a public sewer system owned or operated by a city, public sewer district, public water district, or other publicly-owned treatment works, shall pay an annual fee per water service connection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than seven hundred dollars (\$700) per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly, or annual increments, and shall be remitted to the department no less frequently than annually.

(C) Five percent (5%) of the fees collected pursuant to subsections (2)(B) and (C) of this rule shall be retained by the city, public sewer district, public water district, or other publicly-owned treatment works as reimbursement of billing and collection expenses.]

[(D)](B) All persons who require permits, other than a general permit, for facilities that do not normally discharge such as land

application facilities, sludge disposal facilities, agrichemical facilities, and no-discharge facilities are subject to fees as follows:

1. Fees are based on the design flow of the wastewater being handled; and

2. Fees for sludge or solids disposal facilities are based on the combined total design flow of the wastewater treatment facilities from which the sludge or solids are removed.

AUTHORITY: section 644.054, RSMo [Supp. 2013] 2016. Emergency rule filed July 27, 1990, effective Sept. 12, 1990, expired Jan. 10, 1991. Original rule filed July 17, 1990, effective Dec. 31, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Attn: Jane Davis, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through e-mail to jane.davis@dnr.mo.gov. Public comments must be received by August 23, 2018. The public hearing is scheduled for 10 a.m. on August 15, 2018, at the Department of Natural Resources, Elm Street Conference Center, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 6—Permits

PROPOSED AMENDMENT

10 CSR 20-6.015 No-Discharge Permits. The Clean Water Commission is amending sections (2), (4), and (5).

PURPOSE: This rule sets forth the requirements and process of application for non-discharging facility permits and the terms and conditions of the authorizations.

(2) General.

(A) All persons who *[build, erect, alter, replace,]* operate, use, or maintain water contaminant sources, point sources facilities for storage, treatment, land application, or disposal of process wastes which are *[designed, constructed and]* operated so as not to discharge to waters of the state or will have infrequent discharges shall apply for *[construction and operating]* permits unless exempted under section (3) of this rule.

(4) Permits.

[(A)] Permits required by this rule shall be issued in accordance with permit application and processing procedures contained in 10 CSR 20-6.010, 10 CSR 20-6.011, 10 CSR 20-6.020 and 10 CSR 20-6.200.

(B) Design Standards.

1. Facilities shall be constructed and operated in accordance with the rules under 10 CSR 20 Chapter 7 and Chapter 8. Exceptions or deviations may be considered by the Department when determined appropriate based upon site-specific factors.

2. Where standards are not available, an engineering report addressing all available environmental data concerning

potential pollutants and toxic substances shall be submitted in accordance with 10 CSR 20-8.020(3)(D), 10 CSR 20-8.020(15)(F), 10 CSR 20-8.110 and 10 CSR 20-7.031(4)(B).

3. Pollutant limitations for land application of sludge or biosolids shall conform to 10 CSR 20-7.015(9)(F).

4. Potential pollutant movement to groundwater shall not exceed the limitations in the water quality standards rule under 10 CSR 20-7.031 and the effluent rule under 10 CSR 20-7.015.

5. Groundwater monitoring may be required, where determined appropriate by the Department, at land disposal sites or land application sites that receive pollutants in excess of beneficial use limitations or has potential for excess migration of pollutants to waters of the state. Monitoring wells shall be installed in accordance with monitoring well construction standards under 10 CSR 23, Chapter 4.

6. Hazardous waste shall not be land applied or disposed except in accordance with the Missouri Hazardous Waste Management Law and regulations under 10 CSR 25.1(C)(B) Permit Conditions.

1. The department shall develop permit conditions containing limitations, monitoring, reporting, and other requirements to protect soils, crops, surface waters, groundwater, public health, and the environment.

2. The department may establish standard permit conditions and best management practices for land application facilities by following the public participation procedures under 10 CSR 20-6.020.

3. The department may establish a general permit for a category of similar facilities in accordance with 10 CSR 20-6.010(13).

4. Noncontiguous land application sites may be included in the operating permit for a process waste generator or contract hauler as determined appropriate by the department.

5. Whenever feasible or appropriate, all operating permit requirements under 10 CSR 20 Chapter 6 rules shall be incorporated into a single operating permit for each operating location.

6. Applications for permits shall include an engineer's seal affixed to all engineering plans and engineering certifications.

[7. A water balance barrel test conducted in accordance with 10 CSR 20-8.020(16) shall be required for lagoons or earthen impoundments receiving industrial waste, and engineering certification of the constructed seal shall be submitted as part of the operating permit application.]

(5) Closure of Waste Storage Structures.

(A) No-discharge facilities that cease operation, or plan to close lagoons and other waste storage structures, shall comply with **10 CSR 20-6.010(12)** as well as the following requirements:

[1. Facilities which cease operation shall continue to maintain a valid operating permit until all lagoons and waste storage structures are properly closed according to a closure plan approved by the Department; and]

[2.]1. Facilities that are exempted from permits under this rule and that cease operation shall either close the waste storage structures in accordance with subsection (5)(B) of this rule or [shall] continue to maintain all storage structures so that there is not a discharge to waters of the state.

(B) Closure Requirements. Lagoons and waste storage structures shall be closed by removal and land application of all wastewater and sludges, or in accordance with an alternate closure plan approved by the department. The removed wastewater and sludges shall be land applied at normal agricultural rates for nitrogen fertilizer not to exceed the maximum nitrogen utilization of the vegetation grown and shall be applied at controlled rates so that there will be no discharge to waters of the state. After removal and proper land application of wastewater and sludge, the earthen basins may be—

1. Demolished by removing the berms, grading, and revegetation of the site so as to provide erosion control; or

2. Left in place for future use as a farm pond or similar uses or reserved for future use as a waste storage structure. To prevent dam-

age to the bottom seal due to drying and weed growth, earthen basins shall be refilled with fresh water as soon as possible, and water depths of three feet (3') or more should be maintained.

AUTHORITY: section 644.026, RSMo [Supp. 1997] 2016. Original rule filed July 15, 1991, effective Jan. 13, 1992. Amended: Filed June 1, 1995, effective Jan. 30, 1996. Amended: Filed Nov. 3, 1997, effective July 30, 1998. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Attn: Greg Caldwell, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to greg.caldwell@dnr.mo.gov. Public comments must be received by August 23, 2018. The public hearing is scheduled for 10 a.m. on August 15, 2018, at the Department of Natural Resources, Elm Street Conference Center, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 6—Permits

PROPOSED AMENDMENT

10 CSR 20-6.020 Public Participation, Hearings, and Notice to Governmental Agencies. The commission is removing paragraph (1)(C)4., replacing language in section (2) with reference to federal regulations, amending language in section (3) to reference the Missouri Sunshine Law and modifying language in sections (5), (6), and (7) to better reflect statutory requirements pertaining to appeals.

PURPOSE: This amendment updates the rule to be more consistent with statutory requirements regarding appeals of permit conditions, abatement orders, permit denials and variances. The amendment also removes unneeded or overly burdensome requirements pertaining to the public notice of certain general permits.

(1) Public Participation.

(C) Public Notice for General Permits.

1. Public notice of newly created, or the reissuance of an existing statewide general permit shall be prepared by the department in accordance with subsections (1)(B) and (D) of this rule.

2. Public notification of the issuance of any general permit to an applicant will not be required, except for the following general permits:

- A. Airports;
- B. Chemical manufacturing;
- C. Fabricated structured metal;
- D. Foundries;
- E. Limestone and rock quarries;
- F. Lubricant manufacturing;
- G. Petroleum storage greater than fifty thousand (50,000) gallons; and
- H. Wood treaters.

3. For issuance of the first general permit for any newly constructed water contaminant source, point source, or wastewater treatment facility, public notification shall occur in accordance with subsections (1)(B) and (C) of this rule.

[4. Reissuance of general permits to individual facilities shall not require public notification unless the facility was found to have been in significant noncompliance during the time of the previous permit.]

[5.]4. As new general permits are created, the need for an individual facility public notification process shall be determined and identified in the general permit.

(D) The public notice of permit pending will contain at least the following:

1. Name, address, telephone number of the department, and any other places at which interested persons may obtain further information, request copies of the draft permit and the fact sheet, and inspect and copy related forms and documents;

2. Name and address of the applicant and address of the discharger if different from the applicant;

3. Brief description of the applicant's activities or operations which result in the discharge or potential discharge described in the application;

4. Name of watercourse to which the applicant will discharge, a description of the location of the discharge and designation of the discharge as new or existing;

5. A statement of the tentative determination to issue a permit;

6. A brief description of the procedures for making final determination, including the thirty (30)-day comment period and any other means by which interested persons may influence or comment upon the making of the determinations; and

7. The name and address of the office processing the application.

(2) Notice to Other Governmental Agencies. [The department shall send a copy of the draft permit and accompanying fact sheet the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the Missouri Department of Conservation and to all affected states.] Notices to governmental agencies shall conform with the requirements in 40 CFR 124.59 "Conditions requested by the Corps of Engineers and other government agencies," January 4, 1989, as published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

[(A) Each affected state shall be given an opportunity to submit written recommendations to the department and to the regional administrator which the department may incorporate into the permit if issued. If the department does not incorporate these recommendations, it shall send a written explanation to the affected states of the reasons for failing to accept them.

(B) If the appropriate district engineer of the Corps of Engineers advises the director, in writing, during the public comment period that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of a permit, the permit shall be denied and the applicant so notified. If the district engineer advises the director that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, then the director shall include the specified conditions of the permit. Review or appeal of a denial of a permit or of conditions specified by the district engineer shall be made through the applicable procedures of the Army Corps of Engineers.]

(3) Public Access to Information.

(A) [Applications, draft permits, supporting documents and reports upon those documents shall be available to the public, except for those portions determined to be confidential.] Any information or records submitted or obtained pursuant to Chapter 644, RSMo, may be subject to public disclosure pursuant to Chapter 610, RSMo. Information other than effluent data, support documents or reports contained in any issued permit or document in the water [pollution control] protection program may be

made confidential upon a showing that methods or processes entitled to protection as trade secrets would be revealed if the information were made public. The [director] department shall make the final determination of confidentiality.

(B) The department shall provide for public inspection and copying of information relating to these documents.

(5) Time Limits for Appeals for Abatement Orders, Permit Denials and Variances.

(C) The appeals previously referenced in subsection (5)(A) of this rule may be made by the applicant, permittee, person named in the order or any other person with an interest which is or may be adversely affected. The appeal shall be filed with the [commission secretary of the Clean Water Commission, P.O. Box 176, Jefferson City, MO 65102] Administrative Hearing Commission, 131 W. High St., PO Box 1557, Jefferson City, MO 65101 and shall be received by the [Clean Water] Administrative Hearing Commission prior to expiration of the thirty (30)-day appeal period as computed in subsection (5)(A). The appeal shall be a contested case and shall be conducted under section 644.066, RSMo.

(6) Time Limits for Appeals of Conditions in Issued Permits.

(D) The appeals referenced previously in subsection (6)(A) of this rule may be made by the applicant, permittee, or any other person with an interest which is or may be adversely affected. The appeal shall be filed with the [commission secretary of the Clean Water Commission, P.O. Box 176, Jefferson City, MO 65102] Administrative Hearing Commission, 131 W. High St., PO Box 1557, Jefferson City, MO 65101 and shall be received by the [Clean Water] Administrative Hearing Commission prior to expiration of the thirty (30)-day appeal period as computed in subsection (5)(A). The appeal shall be a contested case and shall be conducted under section 644.066, RSMo.

(7) Appeals made under sections (5) and (6) of this rule shall [be—] conform to the requirements of the Administrative Hearing Commission regulation 1 CSR 15-3.350, effective March 30, 2017.

[(A) An original filed with the secretary of the commission;

(B) Signed by the appellant or appellant's legal counsel;

(C) Clearly identified as an appeal;

(D) Comprised of the following information:

1. Full name, address and telephone number of the appellant and any attorney representing the appellant;

2. Reasons why the appellant believes the actions of the department or commission should be reversed or modified, including the identification and copy of the order or decision made by the director or commission which gives rise to the appeal;

3. Suitable space in the caption for the commission secretary to affix a case number; and

4. Acknowledgment that the matter will automatically be set for hearing.

(8) Appeals filed under sections (5) and (6) of this rule may contain a request for stay of the conditions appealed.

(9) The commission shall construe the provisions of sections (5)-(7) of this rule liberally if the appellant has prepared the complaint without legal counsel.

(10) The secretary of the commission shall serve notice of an appeal filed under sections (5) and (6) on the director and all parties to the appeal by delivery or certified mail.]

AUTHORITY: section 644.026, RSMo [Supp. 1997] 2016. Original rule filed June 19, 1974, effective June 29, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 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: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Attn: Tim Bull, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to tim.bull@dnr.mo.gov. Public comments must be received by August 23, 2018. The public hearing is scheduled for 10 a.m. on August 15, 2018, at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

PROPOSED AMENDMENT

10 CSR 20-6.070 Groundwater Heat Pump Operating Permits.
The Clean Water Commission is amending sections (1)–(5).

PURPOSE: This rule sets forth the requirements and process of application for operating permits and the terms and conditions for the permits.

(1) Permits—General Information.

(A) All persons who build, erect, alter, replace, operate, use, or maintain existing or proposed groundwater heat pump injection/withdrawal wells that inject more than six hundred thousand (600,000) British thermal units (BTUs) per hour (also termed as fifty (50) tons of capacity) shall apply to the department for the permits required by [section 577.155, RSMo] **Missouri Clean Water Law** and these regulations. [The department shall issue these permits in order to enforce section 577.155, RSMo and the Missouri Clean Water Law and regulations.]

(B) The following are exempt from permit regulations:

1. Groundwater heat pump injection wells designed for up to eight (8) single family residents where the combined injection rate is less than six hundred thousand (600,000) BTUs per hour;

2. All other groundwater heat pump injection wells that have a combined injection rate of less than six hundred thousand (600,000) BTUs per hour unless there is a potable water well, not owned by the owner of the heat pump, within one thousand feet (1000') which uses the same aquifer, strata or depth as a source;

3. Any sampling well constructed in conjunction with any injection/withdrawal well; and

4. Heat pumps constructed in such a way so as to not utilize groundwater, such as lateral line systems.

(C) Nothing in these regulations shall prevent the department from taking action where the department finds that any activity exempted under subsection (1)(B) causes pollution of waters of the state, places, or permits to be placed, a water contaminant in a place where it is reasonably certain to cause pollution of any waters of the state or the activity otherwise violates [section 577.155, RSMo,] the Missouri Clean Water Law or these regulations.

(D) Drillers of injection/withdrawal wells shall comply with 10 CSR 23-5.060 Construction Standards for Open Loop Heat Pump Systems That Use Groundwater and 10 CSR 23-3 Well Construction Code.

(E) **Within ninety (90) days of notification by the department,**

[O]owners or operators of injection wells exempted from the permit requirements of subsection (1)(B) are required, upon notification by the department, to submit completed injection well inventory information on forms supplied by the department. [The completed form shall be returned to the department no later than ninety (90) days following the receipt of notification.]

(2) Application.

(A) An application for an original operating permit or renewal of a former operating permit shall be made by letter for each injection/withdrawal well **and shall include each of the following.** The application may be supplemented with copies of information submitted for other federal or state permits. [Each application must be accompanied by a filing fee of seventy-five dollars (\$75).]

[(B)] Each application shall contain the following:]

1. Appropriate application fee as listed in 10 CSR 20-6.011;

[1.]2. Name and address of the company(s), organization(s), owner(s) or operator of the injection/withdrawal well;

[2.]3. Description of structure or process, or both, that will utilize the injection/withdrawal well;

[3.]4. Estimated depth of well, aquifer to be used (or anticipated aquifer), casing and related well construction data as recommended by the office of the state geologist;

[4.]5. Exact location of the proposed injection withdrawal well and any other wells that exist within two thousand feet (2000') shown on a seven and one-half (7 1/2) minute United States Geological Survey (USGS) topographic quadrangle map. This map shall also indicate the depth of each well];

6. The depth of each well indicated on the map;

[5.]7. Maximum, minimum and average volume of water that will be injected or withdrawn on a daily basis;

[6.]8. Maximum, minimum and average temperature differential of injected/withdrawn water;

[7.]9. Computations showing how the temperature differentials were calculated;

[8.]10. General specifications of the installation including the heat exchange unit, pump and other structures;

[9.] Application fee of seventy-five dollars (\$75). When a check used for an application is returned to the department as nonnegotiable, review of the application shall cease and the applicant shall be notified. No further action shall be taken on the application until the fees have been resubmitted in the form of a cashier's check or money order payable to the State of Missouri;]

[10.]11. If the injection/withdrawal well is located within one thousand feet (1000') of any potable water well, [the application shall include] a registered professional geologist's or registered professional geologic engineer's recommendation and justification on the number and location of sampling wells if any are deemed necessary, and an estimate of the effect, in degrees Fahrenheit (F°), on all wells located within one thousand feet (1000'); and

[11.]12. A copy of the certified heat pump well drillers' report to the Department of Natural Resources' [Division of Geology and Land] **Missouri Geological Survey.**

[(C)](B) All applications must be signed as follows:

1. For a corporation—by an officer of at least the level of plant manager;

2. For a partnership or sole proprietorship—by a general partner or the proprietor; or

3. For a municipal, state, federal or other public facility—by either a principal executive officer or ranking public official or his/her designee.

[(D)](C) All other reports required by the department shall be signed by a person designated in subsection (2)/(C)/(B) of this rule or a duly authorized representative, where—

1. The representative so authorized is responsible for the overall operation of the facility from which the injection/withdrawal occurs; and

2. The authorization is made in writing by a person designated in subsection (2)/(C)/(B) of this rule and is submitted to the director.

[(E)/(D)] Any changes in the written authorization which occur after the issuance of a permit shall be reported to the department by submitting a new written authorization which meets the requirements of subsection (2)/(D)/(C) of this rule.

[(F)/(E)] If an application is incomplete or otherwise deficient, the applicant *[shall]* will be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

[(G)/(F)] *[Applications shall be mailed]* **Mail applications** to Water Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102.

(3) Operating Permits.

(A) *[Persons who build, erect, alter, replace, operate, use or maintain groundwater heat pump injection/withdrawal wells that are not exempted shall obtain an operating permit from the department.]* **In order to obtain an operating permit for groundwater heat pump injection/withdrawal wells, applications for an operating permit shall be submitted to the department in accordance with the timeframes listed in section 644.051, RSMo and 10 CSR 20-6.010.**

(B) *[Applications for an original operating permit must be received by the department at least one hundred twenty (120) days before construction of the injection/withdrawal well begins. Applications shall include the earliest date on which the injection/withdrawal is to begin. The department will issue or deny the permit within one hundred twenty (120) days of receipt of the complete application as specified in section (2). No person shall operate an injection/withdrawal well without a valid operating permit, unless s/he is exempted under subsection (1)/(B).]* **Prior to issuance of an operating permit, the department shall fulfill the public notice requirements as outlined in 10 CSR 20-6.020.**

[(C)] *Applications for the renewal of operating permits must be received at least one hundred twenty (120) days before the expiration date of the present operating permit. The department will issue or deny the permit within one hundred twenty (120) days of receipt of the complete application as specified in section (2).*

[(D)] *The public notice requirements at 10 CSR 20-6.020 shall apply.*

(4) Terms and Conditions of Permit.

(A) The following shall be incorporated as terms and conditions of all permits:

1. All injection/withdrawals shall be consistent with the terms and conditions of the permit;

2. The permit may be modified or revoked after reasonable notice for causes including, but not limited to:

A. A violation of any term or condition of the permit;

B. A misrepresentation or failure to disclose fully all relevant facts in obtaining a permit;

C. A change in the operation, size or capacity of the permitted facility; or

D. An increase of more than ten degrees Fahrenheit (10°F) in any nearby potable water well that was in existence when the original operating permit was issued.

3. The injection/withdrawal permit may be issued for a period up to five (5) years. *The permit may not be modified so as to extend the term of the permit beyond five (5) years after its issuance*, in accordance with section 644.051, RSMo and 10 CSR 20-6.010;

4. Permittees shall operate and maintain facilities to comply with *[section 577.155, RSMo,]* the Missouri Clean Water Law, corresponding regulations and applicable permit conditions;

5. For the purpose of inspecting for compliance with the Clean

Water Law and these regulations, authorized representatives of the department shall be allowed by the permittee, upon presentation of credentials and at reasonable times, to—

A. Enter upon permittee's premises in which a groundwater heat pump injection/withdrawal well is located or in which any records are *[required to be]* kept under terms and conditions of the permit;

B. Have access to, or copy, any records *[required to be]* kept under terms and conditions of the permit;

C. Inspect any sampling wells, monitoring equipment or method *[required]* listed in the permit; and

D. Sample for permit compliance;

6. Facility expansions, production increases or process modifications which will result in a new or substantially different injection/withdrawal must be reported sixty (60) days before the facility or process modification begins. Notification may be accomplished by application for a new permit, or by submission of notice to the department;

7. Copies of well location, driller's logs, sample logs, casing schedule, volume of water, temperature, water quality and other information developed or determined for the completed installation shall be sent to the Missouri Department of Natural Resources (DNR), Water Pollution Control Program and *[to the Missouri DNR, Division of Geology and Land]* **Missouri Geological Survey;**

8. **Measure and record** *[M]* maximum, minimum and average water temperature *[measurements shall be made and recorded]* monthly for each injection/withdrawal well and each monitoring well;

9. **Measure and record** *[M]* maximum, minimum and average injection/withdrawal rates *[shall be measured and recorded]* monthly;

10. **Measure and record** *[T]* total dissolved solids *[shall be measured and recorded]* monthly for each injection/withdrawal well and each monitoring well; and

11. A yearly report *[shall be submitted]* to the *[agencies listed in paragraphs (4)(A)4. And 7.]* **Department of Natural Resources' Water Protection Program and Missouri Geological Survey**, which contains the following information:

A. Volume of water withdrawn and injected;

B. Temperature records for each monitoring well; and

C. Copies of water quality analyses performed.

(5) Prohibitions.

(A) No permit shall be issued *[where the terms and conditions of the permit do not comply with applicable guidelines or requirements of section 577.155, RSMo the Missouri Clean Water Law and corresponding regulations or the Federal Clean Water Act and federal regulations.]:*

1. Where the terms and conditions of the permit do not comply with applicable guidelines or requirements of the Missouri Clean Water Law and corresponding regulations or the Federal Clean Water Act and federal regulations;

*[(B)]2. [No permit shall be issued w/]*Where the permit conditions do not ensure compliance with the applicable water quality requirements of any other affected states/.

*[(C)]3. [No permit shall be issued f/]*For the discharge of any pollutant, except thermal discharges; those pollutants contained in the withdrawal water may be reinjected/.

*[(D)]4. [No permit shall be issued f/]*For the discharge of any radiological, chemical or biological warfare agent or radioactive waste/.

*[(E)]5. [No permit shall be issued f/]*For the construction or operation of a new injection/withdrawal well which could degrade the usefulness of water withdrawn from earlier permitted wells.

(6) Permits Transferable.

(A) Subject to section (3), an operating permit may be transferred

upon submission to the department of an application to transfer signed by a new owner. Until, such time as the permit is officially transferred, the original permittee remains responsible for complying with the terms and conditions of the existing permit.

(B) The department, within thirty (30) days of receipt of the application, shall notify the new applicant of its intent to revoke and reissue or transfer the permit.

AUTHORITY: section [577.155] 644.026, RSMo [1994] 2016. Original rule filed Nov. 10, 1980, effective April 11, 1981. Amended: Filed March 9, 1984, effective Oct. 1, 1984. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Attn: Jacob Faulkner, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to Jacob.faulkner@dnr.mo.gov. Public comments must be received by August 23, 2018. The public hearing is scheduled for 10 a.m. on August 15, 2018, at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 6—Permits

PROPOSED AMENDMENT

10 CSR 20-6.090 Class III Mineral Resources Injection/Production Well Operating Permits. The Clean Water Commission is amending sections (1)–(6) and (8).

PURPOSE: This regulation controls the construction and operations of mineral resources injection/production wells.

(1) Permits—General.

(A) This rule *[shall apply]* **applies** to Class III injection/production wells used for the extraction of minerals including:

1. Sulfur mining by the Frasch process;
2. *In-situ* production of uranium or other metals. This category includes only *in-situ* production from ore bodies which have not been conventionally mined;
3. *In-situ* combustion of fossil fuel; fossil fuels include coal, tar sands, oil shale, and any other fossil fuel which can be mined by this process; and
4. Solution mining of salts or potash.

(C) All persons who build, erect, alter, replace, operate, use, or maintain existing or proposed Class III injection/production wells shall apply to the department for **applicable** permits *[required by these regulations]* using application forms provided by the department. *[The department shall issue these permits in order to enforce the Missouri Clean Water Law and regulations.]*

(D) Nothing in these regulations shall prevent the department from taking action where the department finds that any activity that places, or permits to be placed, a water contaminant where it is reasonably certain to cause pollution of any waters of the state, or the activity otherwise violates Chapter 644, RSMo, the Missouri Clean Water

Law, or these regulations.

(G) Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under these regulations for a period extending from the date the application is signed to the date the permit expires **for at least three (3) years**. *[The records shall be maintained at least three (3) years from the date the application is signed.]*

(2) Application.

(A) An application for an operating permit shall be made for each injection/production well **including each of the following items**. The application may be supplemented with copies of information submitted for other federal or state permits.

[(B) Each application shall contain the following:]

1. *[Name and address of the companies, organization(s), owner(s) or operators of the proposed well, ownership status and status as a federal, state, private or other entity]* **All items listed in 10 CFR 144.31(e);**

2. *The activities conducted by the applicant which require the applicant to obtain permits under the Resource Conservation and Recovery Act (RCRA), the Underground Injection Control (UIC) program under the Safe Drinking Water Act, the National Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act or the Prevention of Significant Deterioration (PSD) program under the Clean Air Act;*

3. *Name, mailing address and location of the facility for which the application is submitted;*

4. *Up to four (4) standard industrial classification (SIC) codes which best reflect the principal products or services provided by the facility;*

5. *A listing of all permits or construction approvals received or applied for under any of the following programs:*

A. *Hazardous Waste Management program under RCRA;*

B. *UIC program under the Safe Drinking Water Act;*

C. *NPDES program under the Clean Water Act;*

D. *PSD program under the Clean Air Act;*

E. *Nonattainment program under the Clean Air Act;*

F. *National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;*

G. *Dredge and fill permits under Section 404 of the Clean Water Act; or*

H. *Other relevant environmental permits, including state permits;]*

6. *2. Description of the process that will be used for the mineral extractions, including injection/withdrawal procedures;*

7. *3. Estimated depth of the well, casing lengths and weights, intervals to be cemented, and related well construction data as recommended by the office of the state geologist;*

8. *Exact location of the well including a legal description to the nearest section line as determined by a registered surveyor, a narrative description using locally recognized features and an accompanying topographic or similar map extending one (1) mile beyond the boundary of the facility property depicting the facility and each of its intake and discharge structures, each of its treatment, storage or disposal facilities, each well where fluids from the facility are injected underground and those wells, springs, surface water bodies and drinking water wells listed in public records or otherwise known to the applicant within one-quarter (1/4) mile of the facility property boundary;*

9. *A brief description of the nature of the business;]*

10. *4. Maximum and average volume of injected fluids and injection pressure that will be used on a daily basis;*

11. *5. [Application fee of seventy-five dollars (\$75). When a check used for an application is returned to the*

department as nonnegotiable, review of the application shall cease and the applicant shall be notified. No further action shall be taken on the application until the fees have been resubmitted in the form of a cashier's check or money order payable to the state of Missouri] **Appropriate application fee as listed in 10 CSR 20-6.011;**

[12.]6. Recommendation and justification on the number and location of sampling wells by a registered professional engineer or a qualified geologist as defined by sections 256.501 and 256.503, RSMo;

[13.]7. Where injection is into a formation which contains water with less than ten thousand milligrams per liter (10,000 mg/l) total dissolved solids (TDS), monitoring wells shall be *[completed into the injection zone and into any underground sources of drinking water above the injection zone which could be affected by the mining operation. These wells shall be located in a fashion as to detect any excursion of injection fluids, process by-products or formation fluids outside the mining area or zone. If the operation may be affected by a subsidence or catastrophic collapse, the monitoring wells shall be located so that they will not be physically affected];*

A. Completed into the injection zone and into any underground sources of drinking water (USDW) above the injection zone which could be affected by the mining operation;

B. Located in a fashion as to detect any excursions of injection fluids, process by-products, or formation fluids outside the mining area or zone; and

C. Located as not to be physically affected by a subsidence or catastrophic collapse;

[14.]8. Where injection is into a formation which does not contain water with less than ten thousand (10,000) mg/l TDS, no monitoring wells are necessary in the injection zone;

[15.]9. Where the injection wells penetrate an underground source of drinking water (USDW) in an area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells shall be *[completed into the USDW to detect any movement of injected fluids, process by-products or formation fluids into a USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse];*

A. Completed into the USDW to detect any movement of injected fluids, process by-products, or formation fluids into a USDW; and

B. Located as not to be physically affected by a subsidence or catastrophic collapse;

[16.]10. In determining the number, location, construction, and frequency of sampling of the monitoring wells, **consider** the following criteria *[shall be considered]*:

A. Population relying on the USDW affected or potentially affected by the injection operation;

B. Proximity of the injection operation to points of withdrawal of drinking water;

C. Local geology and hydrology;

D. Operating pressures and whether a negative pressure is being maintained;

E. Nature and volume of the injected fluid, the formation water, and the process by-products; and

F. Injection well density;

[17.]11. Map(s) describing an area of review for each Class III injection/production well or group of wells. The area of review shall be determined by a registered professional engineer or a qualified geologist as defined by sections 256.501 and 256.503, RSMo. The area of review *[shall be]* **is defined as** that area the radius of which is determined by the lateral distance from a Class III injection/production well or perimeter of a group of wells in which the pressure in the injection zone may cause the migration of injection or formation, or both, fluid into a USDW or into an improperly constructed, plugged or abandoned well or test hole.

A. The radius of the area of review may be calculated using a mathematical model (for example, modified Thesis equation) *[and shall be calculated]* for an injection time period at least equal to the expected life of the well(s). The owner or operator must demonstrate to the director that the mathematical model used and the calculated area of review are appropriate for the known hydrologic properties of the underlying formations.

B. A fixed radius around the well or the perimeter of a group of wells of not less than one-half (1/2) mile may be used. In determining the fixed radius, the following factors shall be taken into consideration: chemistry of injected and formation fluids, hydrogeology, population and groundwater use and dependence, and historical practices in the area.

C. If the area of review is determined by a mathematical model pursuant to subparagraph (2)(B)8.A., the permissible radius is the result of the calculation even if it is less than one-half (1/2) mile.

D. Nothing in this section *[shall]* **will** prevent the director from imposing alternate areas of review when geologic or hydrologic conditions render a calculated or fixed area a potential threat to an underground source of drinking water;

[18.]12. **Submit with the application** *[A]*a mapped and tabulated inventory of all known water supply, injection/production, abandoned and test wells, including field names or numbers and locations of the wells, public water systems, within the area of review and a separate tabulation of all the wells, which penetrate the injection zone listing each well's type, construction method, date drilled, location, depth, and record of plugging or completion, or both, *[shall be submitted with the applications and shall include]* **including** a description of all corrective action(s) proposed to be performed to render wells penetrating the injection zone sealed, plugged, or otherwise impervious to the migration of fluids into or between well bores, USDWs, or different aquifers. The applicant is responsible for the inventory and corrective action requirements of this section and shall extend every reasonable effort to locate all wells within the area of review of the applicant well(s);

[19.]13. A plan for plugging and abandonment. Where the plan meets the requirements of this paragraph, the director *[shall]* **will** incorporate it into the permit as a condition. Where the director's review of an application indicates that the permittee's plan is inadequate, the director *[shall]* **will** require the applicant to revise the plan, prescribe conditions meeting the requirements of this paragraph, or deny the application. For purposes of this paragraph, temporary intermittent cessation of injection operations is not abandonment;

[20.]14. Prior to granting approval for the plugging and abandonment of a Class III well, the director *[shall]* **will** consider the following information:

A. The type and number of plugs to be used;

B. The placement of each plug, including the elevation of the top and bottom;

C. The type, grade, and quantity of cement to be used; and

D. The method of placement of the plugs;

[21.]15. The permittee is required to maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the director. The permittee must show evidence of financial responsibility to the director by the submission surety bond or other adequate assurance such as financial statements or other materials acceptable to the director;

[22.]16. Maps and cross-sections indicating the vertical limits of all USDWs within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

[23.]17. Maps and cross-sections detailing the geologic structure of the local area;

[24.]18. Generalized map and cross-sections illustrating the regional geologic setting;

[25.]19. Qualitative analysis and ranges in concentrations of all

constituents of injected fluids. The applicant may request confidentiality as specified in subsection (1)(E). If the information is proprietary, an applicant, in lieu of the ranges in concentrations, may choose to submit maximum concentrations which shall not be exceeded. In this case the applicant shall retain records of the undisclosed concentrations and provide them upon request to the director as part of any enforcement investigation;

[26.]20. Proposed formation testing program to obtain the information required by paragraph (2)(I)4.;

[27.]21. Proposed stimulation program;

[28.]22. Schematic or other appropriate drawings of the surface and subsurface construction details of the well;

[29.]23. Plans, including maps, for meeting the monitoring requirements of subsection (4)(D);

[30.]24. Expected changes in pressure, native fluid displacement, and direction of movement of injection fluid;

[31.]25. Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into the USDW;

[32.]26. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by paragraph (2)(B)19.;

[33.]27. The corrective action proposed to be taken under paragraph (2)(B)18.;

[34.]28. Where the injection zone is a formation which is naturally water-bearing, the following information concerning the injection zone shall be determined or calculated for new Class III wells or projects:

- A. Fluid pressure;
- B. Fracture pressure; and
- C. Physical and chemical characteristics of the formation fluids;

[35.]29. Where the injection formation is not a water-bearing formation, only the information in subparagraph (2)(B)34.B. must be submitted;

[36.]30. Where the permittee becomes aware that s/he failed to submit any relevant facts in a permit application, or has submitted incorrect information in a permit application or in any report to the director, the permittee shall promptly submit the facts or information; and

[37.]31. Data sufficient to allow the department to carry out aquifer exemption procedures under the Safe Drinking Water Act, UIC program. The information shall be sufficient to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis for the amenability of the mining zone to the proposed mining method, and a timetable of planned development of the mining zone shall be considered by the director.

[(C)](B) All applications must be signed as follows:

1. For a corporation—by an officer of at least the level of plant manager;
2. For a partnership or sole proprietorship—by a general partner or the proprietor; or
3. For a municipal, state, federal, or other public facility—by either a principal executive officer or ranking public official or his/her designee.

[(D)](C) All other reports required by the department shall be signed by a person designated in subsection (2)[(C)](B) of this rule or a duly authorized representative, where—

1. The representative so authorized is responsible for the overall operation of the facility from which the injection/withdrawal occurs; and

2. The authorization is made in writing by a person designated in subsection (2)[(C)](B) of this rule and is submitted to the director.

[(E)](D) Any changes in the written authorization which occur

after the issuance of a permit shall be reported to the department by submitting a new written authorization which meets the requirements of subsection (2)(C)[(D)] of this rule.

[(F)](E) If an application is incomplete or otherwise deficient, the applicant *[shall]* will be notified of the deficiency, and processing of the application may be discontinued until the applicant has corrected all deficiencies.

[(G)](F) Any person signing a document under subsection (2)(C) or (D) shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

[(H)](G) *[Applications shall be mailed]* Mail applications to Water Pollution Control Program, P./O./ Box 176, Jefferson City, MO 65102.

[(I)](H) Prior to granting approval for the operation of a Class III well, the director *[shall]* will consider the following information:

1. All available logging and testing data on the well;
2. A satisfactory demonstration of mechanical integrity;
3. The anticipated maximum pressure and flow rate at which the permittee will operate;
4. The results of the formation testing program;
5. The actual injection procedures; and
6. The status of corrective action on defective wells in the area of review.

(3) Operating Permits.

(A) *[Persons who build, erect, alter, replace, operate, use or maintain Class III injection/production wells shall obtain an operating permit from the department.] In order to obtain an operating permit for Class III injection/production wells, application for an operating permit shall be submitted to the department in accordance with the timeframes listed in section 644.051, RSMo and 10 CSR 20-6.010.*

[(B)] *Applications for an original operating permit must be received by the department at least sixty (60) days before construction of the well begins. Applications shall include the earliest date on which injection/production is to begin. The department will issue or deny the permit within sixty (60) days of receipt of the complete application as specified in section (2). No person shall operate an injection/production well without a valid operating permit. If the department fails to issue or deny the permit within the allotted time, the applicant may request a hearing before the Missouri Clean Water Commission. The commission may either require the department to issue or deny the permit at, or within, a specified time following the hearing or extend the permit review period another sixty (60) days following the hearing.*

(C) *Applications for the renewal of operating permits must be received at least sixty (60) days before the expiration date of the present operating permit. The department will issue or deny the permit within sixty (60) days of receipt of the application.]*

[(D)](B) The director may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells—

1. Described and identified by location in permit application(s) if they are existing wells, except that the director may accept a single description of wells with substantially the same characteristics;

2. Located within the same well field, facility site, reservoir, project, or similar unit in the same state; *[and]*

3. Operated by a single owner or operator[.];

[(E)]4. Area permits *[shall]* will specify—

1./A. The area within which underground injections are authorized; and

2./B. The requirements for construction, monitoring, reporting, operation, and abandonment for all wells authorized by the permit.

[(F)]5. *[The a]*Area permits may authorize the permittee to construct and operate, convert, or plug and abandon wells within the permit area provided—

1./A. The permittee notifies the director at a time as the permit requires;

2./B. The additional well satisfies the criteria in subsection (3)(D) and meets the requirements specified in the permit under subsection (3)(E); and

3./C. The cumulative effects of drilling and operation of additional injection wells are considered by the director during evaluation of the area permit application and are acceptable to the director.

[(G)](C) If the director determines that any well constructed pursuant to subsection (3)(F) does not satisfy any of the requirements of paragraphs (3)(F)1. and 2., the director may modify or terminate the permit or take enforcement action. If the director determines that cumulative effects are unacceptable, the permit may be modified or terminated.

(4) Terms and Conditions of Permits.

(A) The following shall be incorporated as terms and conditions of all permits:

1. All operations shall be consistent with the terms and conditions of the permit *[and shall comply with the Clean Water Law; corresponding regulations and applicable permit conditions];*

2. The permit may be modified or revoked after reasonable notice for causes including, but not limited to:

A. Material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance, which justify the application of permit conditions that are different or absent in the existing permit;

B. New information received by the director, including information indicating that cumulative effects on the environment are unacceptable;

C. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued;

D. Good cause, as determined by the director, exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy; and

E. Notification of a proposed transfer of the permit has been received by the director;

3. Suitability of the facility will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance;

4. The permit may be issued for a period of up to five (5) years **in accordance with section 644.051, RSMo and 10 CSR 20-6.010.** *[The permit may not be modified so as to extend the term of the permit beyond five (5) years after its issuance.]* If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit prior to the expiration date of the permit in effect;

5. The director may terminate a permit during its term or deny a permit renewal application for the following causes:

A. Noncompliance by the permittee with any condition of the permit;

B. The permittee's failure in the application or during the per-

mit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time; or

C. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

6. For the purpose of inspecting for compliance with the Clean Water Law and these regulations, authorized representatives of the department shall be allowed by the permittee, upon presentation of credentials and at reasonable times, to—

A. Enter upon permittee's premises in which Class III injection/production well is located or in which any records are *[required to be]* kept under terms and conditions of the permit;

B. Have access to or copy, any records *[required to be]* to be kept under terms and conditions of the permit;

C. Inspect any sampling wells, monitoring equipment, or method *[required]* listed in the permit; and

D. Sample for permit compliance;

7. Facility expansions, production increases or process modifications which will result in a new substantially different operation must be reported sixty (60) days before the facility or process modification begins. Notification may be accomplished by application for a new permit or by submission of notice to the department;

8. Copies of well location, driller's logs, sample logs, casing schedule, volume of water, temperature, water quality, cement records, and other information developed or determined for the completed installation shall be sent to the Missouri Department of Natural Resources, Water Pollution Control Program and to the Missouri Department of Natural Resources, Division of Geology and Land Survey;

9. **Measure and record** *[M]*maximum and average injection/withdrawal volumes and pressures *[shall be measured and recorded]* semi-monthly;

10. **Measure and record** *[T]*total dissolved solids *[shall be measured and recorded]* semi-monthly for each injection/production well and each monitoring well;

11. **Submit** *[A]*a quarterly report *[shall be submitted]* to the agencies listed in paragraph (4)(A)8. which contains the following information:

A. Volume and pressure of fluids injected and withdrawn; and

B. Copies of water quality analyses performed; and

12. Information on compliance and noncompliance shall be submitted **by the permittee** as follows:

A. *[Reports of]* **No later than thirty (30) days following each compliance schedule date, submit in writing** compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule pertaining to this permit *[shall be submitted no later than thirty (30) days following each schedule date. The permittee shall report any noncompliance which may endanger health or the environment, including information which indicates that any contaminant may cause an endangerment to a USDW, or noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs. This information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission also shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and]*

B. **Within twenty-four (24) hours of becoming aware of the circumstances, report orally any noncompliance which may endanger health or the environment, including information**

which indicates that any contaminant may cause an endangerment to a USDW, or noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs.

C. Within five (5) days of becoming aware of the circumstances, report in writing a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and

[B./D. [The permittee shall report] With the next scheduled monitoring report, submit in writing all instances of noncompliance not reported under other sections of this rule [at the time monitoring reports are submitted. The reports shall contain], including the information listed in subparagraph (4)(A)12.A. through C.

(B) No owner or operator shall construct, operate, maintain, convert, plug, or abandon any Class III injection/production well or conduct any other activity in a manner that allows the movement of fluid containing any contaminant into USDWs. The applicant for a permit shall have the burden of showing that the requirements of this section are met through a demonstration of mechanical integrity. *Demonstration of the absence of significant leaks shall utilize at least one (1) of the following procedures: a pressure test with liquid or gas; monitoring of annulus pressure in wells injecting at a positive pressure following an initial pressure test; or any other test(s) that the state geologist considers effective. Demonstration of the absence of significant migration of fluids in channels adjacent to the well bore shall utilize at least two (2) of the following procedures: noise logs, temperature surveys, cement records demonstrating the presence of adequate cement to prevent migration (used only if the nature of casing precludes the use of noise logs or temperature surveys); or any other test(s) approved by Environmental Protection Agency (EPA) and that the state geologist considers effective. Mechanical integrity must be demonstrated before operations may begin. Documentation of successful demonstration of mechanical integrity shall be submitted to the department or the department may witness the demonstrations. Scheduling of witnessed demonstrations of mechanical integrity shall be at the reasonable convenience of the applicant. Nothing in this rule shall prevent the director from rescheduling a test at a reasonable time convenient to the applicant when necessary to allow department personnel to witness the test(s).]* by completing each of the following:

1. Demonstrate the absence of significant leaks utilizing at least one (1) of the following procedures: a pressure test with liquid or gas; monitoring of annulus pressure in wells injecting at a positive pressure following an initial pressure test; or any other test(s) that the state geologist considers effective.

2. Demonstrate the absence of significant migration of fluids in channels adjacent to the well bore utilizing at least two (2) of the following procedures: noise logs, temperature surveys, cement records demonstrating the presence of adequate cement to prevent migration (used only if the nature of casing precludes the use of noise logs or temperature surveys); or any other test(s) approved by Environmental Protection Agency (EPA) and that the state geologist considers effective.

3. Demonstrate mechanical integrity before operations may begin by submitting documentation of successful demonstrations of mechanical integrity, or by allowing department personnel to witness the demonstrations. Scheduling of witnessed demonstrations of mechanical integrity may be at the reasonable convenience of the applicant. Nothing in this rule will prevent the director from rescheduling a test at a reasonable time convenient to the applicant when necessary to allow department personnel to

witness the test(s).

(D) Monitoring requirements, at a minimum, shall specify—

1. Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis *[required by] completed in accordance with* paragraph (2)(B)25. is incorrect or incomplete, a new analysis *[as required by] in accordance with* paragraph (2)(B)25. shall be provided to the director;

2. Monitoring of injection pressure and either flow rate or volume semi-monthly, or metering and daily recording of injected and produced fluid volumes as appropriate;

3. Monitoring of the fluid level in the injection zone semi-monthly where appropriate and monitoring of the parameters chosen to measure water quality in the monitoring wells *[as required by] in accordance with* paragraph (2)(B)13. semimonthly; and

4. Quarterly monitoring of wells *[as required by] in accordance with* paragraph (2)(B)15.

(5) Prohibitions.

(A) No permit shall be issued *[where the terms and conditions of the permit do not comply with applicable guidelines or requirements of the Clean Water Law and corresponding regulations or relevant federal laws.]:*

1. Where the terms and conditions of the permit do not comply with applicable guidelines or requirements of the Clean Water Law and corresponding regulations or relevant federal laws.

[(B)]2. [No permit shall be issued w/Where the permit conditions do not ensure compliance with the applicable water quality requirements of any other affected states.

[(C)]3. [No permit shall be issued f/For the discharge of any pollutant not necessary to the extraction process, except thermal discharges; those produced pollutants contained in the formation water may be reinjected into a formation of the same TDS concentration.

[(D)]4. [No permit shall be issued f/For the discharge of any radiological, chemical, or biological warfare agent or radioactive waste.

[(E)]5. [No permit shall be issued f/For the construction or operation of a new injection/production well which would degrade the usefulness of water withdrawn from earlier permitted wells.

[(F)]6. [No permit shall be issued f/For a well utilizing annular injection or production.

[(G)](B) No well shall be operated so that fluid pressures in the injection zone exceed the fracture pressure calculated or known for that formation.

[(H)](C) New injection wells may not commence injection until construction is complete and—

1. The permittee has submitted notice of completion of construction to the director and—

A. The director has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or

B. The permittee has not received notice from the director of the intent to inspect or otherwise review the new injection well within thirteen (13) days of the date of the notice in paragraph (5)(H)1. of this rule, in which case prior inspection or review is waived and the permittee may commence injection.

(I) No operation shall commence until corrective actions outlined in paragraph (2)(B)18. and those required by the department have been completed.

(6) Class III Injection/Production Well Construction Requirements.

(A) All new injection/production wells shall *[be cased and cemented to prevent the migration of fluids into or between USDWs or potential sources of drinking water. The casing and cement used in construction of each newly drilled well shall be designed for the life of the well. In determining and*

specifying casing and cementing requirements, the following factors shall be considered] meet each of the following conditions:

1. Depth to the injection/production zone;
2. Injection pressure, external pressure, internal pressure, axial loading;
3. Borehole size;
4. Size and grade of all casing strings including wall thickness, diameter, nominal weight, length, joint specification and construction material;
5. Corrosiveness of injection/production and formation fluids or combinations;
6. Lithology of injection/production and confining zones; and
7. Type and grade of cement.]

1. Wells are cased and cemented to prevent the migration of fluids into or between USDWs or potential sources of drinking water;

2. The casing and cement used in construction of each newly drilled well is designed for the life of the well;

3. Consider the following factors when determining and specifying casing and cementing requirements:

- A. Depth to the injection/production zone;
- B. Injection pressure, external pressure, internal pressure, axial loading;
- C. Borehole size;
- D. Size and grade of all casing strings including wall thickness, diameter, nominal weight, length, joint specification, and construction material;
- E. Corrosiveness of injection/production and formation fluids or combinations;
- F. Lithology of injection/production and confining zones; and
- G. Type and grade of cement.

(8) Plugging and Abandonment.

(D) The director [shall] will prescribe aquifer cleanup and monitoring where s/he deems it necessary and feasible to insure adequate protection of USDWs.

AUTHORITY: section 644.026, RSMo [Supp. 1987] 2016. Original rule filed Nov. 9, 1983, effective June 1, 1984. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Attn: Jacob Faulkner, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to Jacob.faulkner@dnr.mo.gov. Public comments must be received by August 23, 2018. The public hearing is scheduled for 10 a.m. on August 15, 2018, at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

PROPOSED AMENDMENT

10 CSR 20-6.200 Storm Water Regulations. The Clean Water Commission is amending sections (1), (3), (4), (5), (6), and (7), deleting section (8), and renumbering and amending section (9).

PURPOSE: This rule sets forth the requirements and process of application for permits for storm water discharges and the terms and conditions for the permits.

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) Storm Water Permits—General.

(B) Nothing shall prevent the department from taking action, including the requirement for issuance of any permits under the Missouri Clean Water Law and regulations, if any of the operations exempted should cause pollution of waters of the state or otherwise violate the Missouri Clean Water Law or these regulations. The following are exempt from storm water permit regulations:

[1. Discharges from facilities or activities excluded from the state operating permit program under 10 CSR 20-6.010(1)(B);]

[2.]1. Areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with storm water drained from permitted areas;

[3.]2. De minimis discharges as defined by the department in general permits or by the Clean Water Commission;

[4.]3. Recycling collection points which are covered in a manner which prevents contact with storm water, including run on;

[5.]4. Farmlands, domestic gardens, or lands used for sludge management where domestic sludge is beneficially reused and which are not physically located in the confines of the facility producing the sludge;

[6.]5. Agricultural storm water discharges and irrigation return flows;

[7.]6. Sites that disturb less than one (1) acre of total land area which are not part of a common plan or sale. Land disturbance activity on an individual residential building lot is not considered as part of the overall subdivision unless the activity is by the developer to improve the lot for sale;

[8.]7. Linear, strip, or ribbon construction or maintenance operations meeting one (1) of the following criteria:

A. Grading of existing dirt or gravel roads which does not increase the runoff coefficient and the addition of an impermeable surface over an existing dirt or gravel road;

B. Cleaning or routine maintenance of roadside ditches, sewers, waterlines, pipelines, utility lines, or similar facilities;

C. Trenches two (2) feet in width or less; or

D. Emergency repair or replacement of existing facilities as long as best management practices are employed during the emergency repair;

[9.]8. Mowing, brush hog clearing, tree cutting, or similar activities which do not grade, dig, excavate, or otherwise remove or kill the surface growth and root system of the ground cover;

[10.]9. Landfills which have received Missouri Department of Natural Resources approval to close and which are in compliance with any post-closure monitoring, management requirements, and deed restrictions, unless the department determines the facility is a significant discharger of storm water related pollutants;

[11.]10. Facilities built to control the release of only storm water are not subject to the construction permitting requirement of 10 CSR 20-6.010(4), provided that the storm water does not come in

contact with process waste, process wastewater, or significant materials, and the storm water is not a significant contributor of pollutants;

11. Phase II municipal separate storm sewer system (MS4) may request a waiver in accordance with 40 CFR part 122.32(c), December 8, 1999, as published by the Environmental Protection Agency (EPA) Docket Center, EPA West 1301 Constitution Avenue NW., Washington, DC 20004, are incorporated by reference. This rule does not incorporate any subsequent amendments or addition.

[12. The department may waive permit coverage if a municipal separate storm sewer system (MS4) serves a population of one thousand (1,000) or more within an urbanized area and the discharges meet the following criteria:

A. The discharges are not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the department's storm water program; and

B. If the discharge includes any pollutant(s) that have been identified as a cause of impairment of any water body to which it flows and storm water controls are not needed based on wasteload allocations that are part of an U.S. Environmental Protection Agency (EPA) approved or established total maximum daily load (TMDL) that addresses the pollutant(s) of concern;

13. The department may waive permit coverage if a MS4 serves a population of ten thousand (10,000) or more and the discharges meet the following criteria:

A. The department has evaluated all waters of the state, including small streams, tributaries, lakes, and ponds, that receive a discharge from the MS4;

B. For all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

C. For the purpose of this paragraph, the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that receives a discharge from a MS4; and

D. The department has determined that future discharges from a MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts;]

[14.]12. A regulated small MS4 may share the responsibility under the following:

A. A MS4 may develop an agreement with another entity to assist with satisfying the National Pollutant Discharge Elimination System (NPDES) permit obligations or with implementing a minimum control measure if:

(I) The other entity currently implements the control measure;

(II) The particular control measure, or component thereof, is at least as stringent as the corresponding permit requirement; and

(III) A MS4 that relies on another entity to satisfy some of the permit obligations specifies the condition of the agreement, including a description of the obligations implemented by the other entity. The permitted MS4 remains ultimately responsible for compliance with the permit obligations if the other entity fails to implement the control measure (or component thereof);

B. In some cases, the department may recognize, either in an individual permit or in a general permit that another governmental

entity is responsible under a permit for implementing one (1) or more of the minimum control measures for a small MS4. Where the department recognizes these dual responsibilities, the department may not require the MS4 to include such minimum control measure(s) in their program. The MS4 permit may be modified to include the requirement to implement a minimum control measure if the other entity fails to implement it;

[15.]13. The director may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five (5) acres, but more than one (1) acre, where:

A. The value of the rainfall erosivity factor R in the Revised Universal Soil Loss Equation is less than five (5) during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997, which is incorporated in this rule by reference. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M Street S.W., Washington, DC 20460. An operator must certify to the director that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five (5); or

B. A TMDL approved or established by the department or by the EPA that addresses the pollutant(s) of concern without the need for storm water controls;

C. Waste load allocations are not needed on non-impaired waters to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of paragraph (1)(B)15. and subparagraph (1)(B)15.C. of this rule, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause or a potential cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the department that the construction activity will take place, and that storm water discharges will occur, within the drainage area addressed by the TMDL or by an equivalent analysis; and].

[16.](C) No Exposure Certification. A storm water permit under this rule may be excluded for industrial activities that do not expose materials to storm water. No exposure exists if the industrial materials and activities are protected from rain, snow, snowmelt, and/or runoff and the operator meets the requirements under [parts A.(I) through B.(III) of this] paragraph (C)1. and subparagraph (C)2.C. of this subsection.

[A.]1. Industrial materials and activities protected by storm resistant shelter. No exposure means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product. To qualify a permit exclusion under this paragraph, the operator of the discharge must:

[(I)]A. Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snowmelt, and runoff;

[(III)]B. Complete and sign a certification that storm water is not contaminated by exposure to industrial materials and activities from the entire facility[, except as provided in paragraph (1)(A)2. of this rule];

[(III)]C. Re-submit the signed certification to the department once every five (5) years;

[(IV)]D. Allow the department to inspect the facility to determine compliance with the no-exposure conditions;

[(V)]E. Make the no-exposure inspection reports available to

the public upon request; and

[(V)]/E. For facilities that discharge through a MS4, submit a copy of the certification of no-exposure to the MS4 operator, as well as allow inspection and public reporting of the inspection findings by the MS4 operator.

[B.]2. Industrial materials and activities not requiring storm resistant shelter. An industrial site may qualify for this exclusion without a storm resistant shelter if:

[(I)]/A. Drums, barrels, tanks, and similar containers are tightly sealed, provided those containers are not deteriorated and do not leak. Sealed means banded or otherwise secured and without operational taps or valves;

[(III)]/B. Adequately maintained vehicles are used in material handling; and

[(IIII)]/C. All industrial materials consist of final products, other than products that would be mobilized by storm water.

[(C)]/(D) Definitions.

1. Best management practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

2. BMPs for land disturbance. A schedule of activities, practices, or procedures that reduces the amount of soil available for transport or a device that reduces the amount of suspended solids in runoff before discharge to waters of the state. Types of BMPs for storm water control include, but are not limited to:

A. State-approved standard specifications and permit programs;

B. Employee training in erosion control, material handling and storage, and housekeeping of maintenance areas;

C. Site preparation such as grading, surface roughening, topsoiling, tree preservation and protection, and temporary construction entrances;

D. Surface stabilization such as temporary seeding, permanent seeding, mulching, sodding, ground cover including vines and shrubs, riprap, and geotextile fabric. Mulches may be hay, straw, fiber mats, netting, wood cellulose, corn or tobacco stalks, bark, corn cobs, wood chips, or other suitable material which is reasonably clean and free of noxious weeds and deleterious materials. Grasses used for temporary seeding shall be a quick growing species such as rye grass, Italian rye grass, or cereal grasses suitable to the area and which will not compete with the grasses sown later for permanent cover;

E. Runoff control measures such as temporary diversion dikes or berms, permanent diversion dikes or berms, right-of-way or perimeter diversion devices, and retention and detention basins. Sediment traps and barriers, sediment basins, sediment (silt) fence, and staked straw bale barriers;

F. Runoff conveyance measures such as grass-lined channels, riprap, and paved channels, temporary slope drains, paved flumes, or chutes. Slope drains may be constructed of pipe, fiber mats, rubble, Portland cement concrete, bituminous concrete, plastic sheets, or other materials that adequately will control erosion;

G. Inlet and outlet protection;

H. Streambank protection such as a vegetative greenbelt between the land disturbance and the watercourse. Also, structural protection which stabilizes the stream channel;

I. A critical path method analysis or a schedule for performing erosion control measures; and

J. Other proven methods for controlling runoff and sedimentation;

3. Copetitioner. A person with apportioned legal, financial, and administrative responsibility based on land area under its control for filing Part 1 and Part 2 of a state operating permit for the discharge of storm water from municipal separate storm sewer systems. A copetitioner becomes a copermitttee once the permit is issued.

4. Copermitttee. A permittee to a state operating permit that is responsible only for permit conditions relating to the discharge for which it is owner or operator, or both.

5. *De minimis* water contaminant source. A water contaminant source, point source, or wastewater treatment facility that is determined by the department to pose a negligible potential impact on waters of the state, even in the event of the malfunction of wastewater treatment controls or material handling procedures.

6. Field screening point. A specific location which during monitoring will provide representative information to indicate the presence of illicit connections or illegal dumping and quality of water within a municipal separate storm sewer system.

7. Illicit discharge. Any discharge to a municipal separate storm sewer that is not composed entirely of storm water, except discharges pursuant to a state operating permit, other than storm water discharge permits and discharges from fire fighting activities.

8. Incorporated place (in Missouri, a municipality). A city, town, or village that is incorporated under the laws of Missouri.

9. Landfill. Location where waste materials are deposited on or buried within the soil or subsoil. Included are open dumps and landfills built or operated, or both, prior to the passage of the Missouri Solid Waste Management Law as well as those built or operated, or both, since.

10. Large municipal separate storm sewer system. All municipal separate storm sewers that are either—

A. Located in an incorporated place with a population of two hundred fifty thousand (250,000) or more;

B. Located in the counties designated by the director as unincorporated places with significant urbanization and identified systems of municipal separate storm sewers;

C. Owned and operated by a municipality other than those described in *[sub]paragraphs (1)/(C) 10.A./(D)15. and (1)(D)29.* of this rule that are designated by the director as part of a system. In making this determination, the director may consider the following factors:

(I) Physical interconnections between the municipal separate storm sewers;

(II) The location of discharges from the designated municipal storm sewer relative to the discharges from municipal separate storm sewer described in *[sub]paragraph (1)/(C) 10.A./(D)16.* of this rule;

(III) The quantity and nature of pollutants discharged to the waters of the state;

(IV) The nature of the receiving waters; or

(V) Other relevant factors; and

D. The director, upon petition, may designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdiction, watershed, or other appropriate basis that includes one (1) or more of the systems described in *subparagraph [(1)/(C) 10.A.]/(1)(B)10.A.* of this rule.

11. MS4 means:

A. A municipal separate storm sewer system.

12. Major municipal separate storm sewer system outfall (major outfall). A municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of thirty-six inches (36") or more (or its equivalent) or for municipal separate storm sewers that receive storm waters from lands zoned for industrial activity within the municipal separate storm sewer system with an outfall that discharges from a single pipe with an inside diameter of twelve inches (12") or more (or from its equivalent). Industrial activity areas do not include commercial areas.

13. Major outfall. A major municipal separate storm sewer outfall.

14. Major structural controls. Man-made retention basins, detention basins, major infiltration devices, or other structures designed and operated for the purpose of containing storm water discharges from an

area greater than or equal to fifty (50) acres.

15. Medium municipal separate storm sewer system. All municipal separate storm sewers that are either—

A. Located in an incorporated place with a population of one hundred thousand (100,000) or more but less than two hundred fifty thousand (250,000), as determined by the latest decennial census by the Bureau of Census; or

B. Owned and operated by a municipality other than those described in subparagraph *[(1)(C)15.A.] (1)(D)15.A* of this rule and that are designated by the director as part of the system. In making this determination, the director may consider the following factors:

(I) Physical interconnections between the municipal separate storm sewers;

(II) The locations of discharges from the designated municipal separate storm sewer relative to discharges from the municipal separate storm sewers described in subparagraph *[(1)(C)15.A.] (1)(D)15.A.* of this rule;

(III) The quantity and nature of pollutants discharged to waters of the state;

(IV) The nature of the receiving waters;

(V) Other relevant factors; or

(VI) The director, upon petition, may designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdiction, watershed, or other appropriate basis that includes one (1) or more of the systems described in subparagraph *[(1)(C)15.A.] (1)(D)15.A.* of this rule.

16. Municipal separate storm sewer means a conveyance or system of conveyances including roads and highways with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, paved or unpaved channels, or storm drains designated and utilized for routing of storm water which—

A. Does not include any waters of the state *[as defined in this rule]*;

B. Is *[contained within the municipal corporate limits or is]* owned and operated by the state, city, town, village, county, district, association, or other public body created by or pursuant to the laws of Missouri having jurisdiction over disposal of sewage, industrial waste, storm water, or other liquid wastes;

C. Is not a part or portion of a combined sewer system;

D. Is not a part of a publicly owned treatment works as defined in 40 CFR 122.2; and

E. Sewers that are defined as large or medium or small municipal separate storm sewer systems pursuant to paragraphs 10., 15., and *[28.] 29.* of this section, or designated under subsection (1)(B) of this rule.

17. Operator. The owner, or an agent of the owner, of a separate storm sewer with responsibility for operating and maintaining the effectiveness of the system.

18. Outfall. A point source as defined by 10 CSR 20-2.010 at the point where a municipal separate storm sewer discharges and does not include open conveyances connecting two (2) municipal separate storm sewers, pipes, tunnels, or other conveyances which connect segments of waters of the state and are used to convey waters of the state.

19. Overburden. Any material of any nature consolidated or unconsolidated that overlays a mineral deposit excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

20. Owner. A person who owns and controls the use, operation, and maintenance of a separate storm sewer.

21. Process wastewater. Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

22. Receiving waters. Waters of the state as defined in this rule.

23. Recycling facilities. Locations where metals, paper, tires, glass, organic materials, used oils, spent solvents, or other materials are collected for reuse, reprocessing, or resale.

24. Regulated MS4 means:

A. A MS4 which serves a population of one thousand (1,000) or more within an urbanized area, or any MS4 located outside of an urbanized area serving a jurisdiction with a population of at least ten thousand (10,000) and a population density of one thousand (1,000) people per square mile or greater.

B. A MS4 which is designated by the department when it is determined that the discharges from the MS4 have caused or have the potential to cause an adverse impact on water quality. An application shall be submitted within one hundred eighty (180) days of the designation by the department.

25. Runoff coefficient. The fraction of total rainfall that will appear at a conveyance as runoff.

26. Significant contributor of pollutants. A person who discharges or causes the discharge of pollutants in storm water which can cause water quality standards of the waters of the state to be violated.

27. Significant material or activity associated with industrial activity.

A. For the categories of industries identified in subsections (2)(A)–*[(D)](C)* of this rule, the term includes, but is not limited to, storm water discharged from industrial plant yards, immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility.

B. Significant materials include, but are not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation, Liability Act of 1980 (CERCLA); any chemical the facility is required to report pursuant to Section 313 of Title III of Superfund Amendments & Reauthorization Act of 1986 (SARA); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

C. Material received in drums, totes, or other secure containers or packages which prevent contact with storm water, including run on, are exempted from the significant materials classification until the container has been opened for any reason. If the container is moved into a building or other protected area prior to opening, it will not become a significant material.

D. Empty containers which have been properly triple rinsed are not significant materials.

28. Small construction activity means:

A. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

B. Any other construction activity designated by the department, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

29. Small municipal separate storm sewer system means:

A. Owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district,

flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act (CWA) that discharges to water of the United States.

B. Not defined as large or medium municipal separate storm sewer systems pursuant to paragraphs 10. and 15. of this subsection.

C. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as around individual buildings.

30. Small MS4 means:

A. A small municipal separate storm sewer system.

31. Storm water means storm water runoff, snowmelt runoff and surface runoff, and drainage.

32. Storm water discharge associated with industrial activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw material storage areas at an industrial plant.

[33. *Waters of the state, as it applies to large and medium municipalities under this regulation, means all waters listed as L1, L2, and L3 in Table G and P, P1, and C in Table H of 10 CSR 20-7.031.*]

(3) Land Disturbance and Small Construction Activity.

(A) The owner/operator of an existing or new storm water discharge from a land disturbance or small construction activity shall provide a narrative description of—

1. The location (including a map) and the nature of the construction activity;

2. The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

[3. *Proposed measures, including BMPs, to control pollutants in storm water discharges during construction, including a brief description of applicable state and local erosion and sediment control requirements;*

4. *Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable state or local erosion and sediment control requirements;*

5. *An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and*

[6.]3. The name of the receiving water[.]; and

4. **Applicable requirements under 40 CFR part 122.21(f), April 1, 1983, as published by the EPA Docket Center, EPA West 1301 Constitution Avenue NW., Washington, DC 20004, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions.**

(4) Application requirements for large, medium municipal separate storm sewer discharges. *[The owner and operator of a discharge from a large, medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the director under paragraph (1)(C)10. of this rule may submit a jurisdiction- or system-wide permit application. Where more than one (1) public entity owns and operates a municipal separate storm sewer within a geographic area, including adjacent or interconnected municipal separate storm sewer systems, the owners and operators may be copetitioners to the same application. A public entity which does not participate as a copetitioner with the municipal entity designated as having overall authority over storm water discharges may be required by the director to submit a separate application*

for its area of responsibility. Permit applications for discharges from large, medium municipal storm sewers or municipal storm sewers designated under paragraph (1)(C)14. of this rule shall include:]

[(A) Part 1 of the application shall consist of—

1. General information. The applicant's name, address, telephone number of contact person, ownership and operator status, and status as a state or local government entity;

2. Legal authority. A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in paragraph (4)(B)1. of this rule, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek the additional authority that will be needed to meet the criteria;

3. Source identification.

A. A description of the historic use of ordinances, guidance, or other controls which limit the discharge of non-storm water discharges to any publicly-owned treatment works serving the same area as the municipal separate storm sewer system.

B. A United States Geological Survey seven and one-half (7.5) minute topographic map (or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost effective) extending one (1) mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. The following information shall be provided:

(I) The location of known municipal storm sewer system outfalls discharging to waters of the state;

(II) A description of the land use activities (for example, divisions indicating undeveloped, residential, commercial, agricultural, and industrial uses) accompanied with estimates of population densities and projected growth for a ten (10)-year period within the drainage area served by the separate storm sewer. An estimate of an average runoff coefficient shall be provided for each land use type;

(III) The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage, or disposal facility for municipal waste;

(IV) The location and the permit number of any known discharge to the municipal storm sewer that has been issued a state operating permit;

(V) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and

(VI) The identification of publicly-owned parks, recreational areas, and other open lands;

4. Discharge characterization.

A. Monthly mean rain and snowfall estimates (or summary of weather bureau data) and the monthly average number of storm events.

B. Existing quantitative data describing the volume and quality of discharges from the municipal separate storm sewer, including a description of the major outfalls sampled, sampling procedures, and analytical methods used.

C. A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, groundwater, lakes, and wetlands where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving discharges have been:

(I) Assessed and reported in Section 305(b) reports submitted by the state, the basis for the assessment (evaluated or monitored), a summary of designated use support

and attainment of CWA goals (fishable and swimmable waters) and causes of nonsupport of designated uses;

(II) Listed under Section 304(l) of the CWA that is not expected to meet water quality standards or water quality goals;

(III) Listed in state Nonpoint Source Assessments required by Section 319(a) of the CWA that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance, and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards);

(IV) Identified and classified according to eutrophic condition of publicly-owned lakes listed in state reports required under Section 314(a) of the CWA including the following: A description of those publicly-owned lakes for which uses are known to be impaired; a description of procedures, processes, and methods to control the discharge of pollutants from municipal separate storm sewers into those lakes and a description of methods and procedures to restore the quality of those lakes;

(V) Recognized by the applicant as highly valued or sensitive waters;

(VI) Defined by the state or United States Fish and Wildlife Service's National Wetlands Inventory as wetlands; and

(VII) Found to have pollutants in bottom sediments, fish tissue, or biosurvey data.

D. Field screening. Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two (2) grab samples shall be collected during a twenty-four (24)-hour period with a minimum period of four (4) hours between samples. For all these samples, a narrative description of the color, odor, turbidity, presence of an oil sheen or surface scum, as well as any other relevant observations regarding the potential presence of nonstorm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 10 CSR 20-7.015, the applicant shall provide a description of the method used, including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be major outfalls, other outfall points, manholes, junctions of storm drainage ditches etc., located throughout the storm sewer system by one (1) of the following two (2) methods:

(I) Field screening points shall be located randomly throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. For the use of this method, the field screening points shall be established using the following guidelines and criteria:

(a) A grid system consisting of perpendicular north-south and east-west lines spaced one-quarter (1/4) mile apart shall be overlaid on a map of the municipal storm sewer system creating a series of cells;

(b) All cells that contain a segment of the storm sewer system shall be identified. One (1) field screening

point shall be selected in each cell (not to exceed the number required in subpart (4)(A)4.D.(I)(f)). Major outfalls may be used as field screening points;

(c) Field screening points should be located downstream of any sources of suspected illegal or illicit activity;

(d) Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system within each cell. However, safety of personnel and accessibility of the location should be considered in making this determination;

(e) Hydrological conditions, total drainage area of the site, population density of the site, traffic density, age of the structures or buildings in the area, history of the area, and land-use types;

(f) For medium municipal separate storm sewer systems, no more than two hundred fifty (250) cells need to have identified field screening points. In large municipal separate storm sewer systems, no more than five hundred (500) cells need to have identified field screening points. Cells established by the grid that contain no storm sewer segments will be eliminated from consideration. If fewer than two hundred fifty (250) cells in medium municipal sewers are created, and fewer than five hundred (500) in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system shall be subject to field screening unless access to the separate storm sewer system is impossible; and

(g) Municipal separate storm sewer systems which are unable to utilize the procedures described in subpart (4)(A)4.D.(I) of this rule because a sufficiently detailed map of the separate storm sewer systems is unavailable shall field screen no more than five hundred (500) or two hundred fifty (250) major outfalls respectively (or all major outfalls in the system, if fewer). In these circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced one-quarter (1/4) mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells. The applicant will then select major outfalls in as many cells as possible until at least five hundred (500) major outfalls (large municipalities) or two hundred fifty (250) major outfalls (medium municipalities) are selected. A field screening analysis shall be undertaken at these major outfalls; or

(II) Field screening points shall be located throughout the storm sewer system by the establishment of watersheds for both conduit and open drainage conveyance systems. The drainage system shall be indicated on a drainage system map along with the identification of the appropriate watershed boundaries. For the use of this method, the applicant, with the approval of the director, may develop the runoff characteristics of each land area contributing to a sampling point by utilizing best engineering judgment and current hydrologic analysis methodologies. The proposal shall be submitted to the department as an attachment to the Part 1 storm water permit application required by this regulation.

E. Characterization plan. Information and a proposed program to meet the requirements of paragraph (4)(B)3. of this rule. The description shall include the location of outfalls or field screening points appropriate for representative data collection under paragraph (4)(B)3. of this rule, a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, and a description of the sampling equipment. The proposed location of outfalls or field screening points for sampling should reflect water quality concerns to the extent practicable;

5. Management programs.

A. A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls that are currently being implemented. These controls may include, but are not limited to, procedures to control pollution resulting from construction activities; flood plain management controls; wetland protection measures; BMPs for new subdivisions; and emergency spill response programs. The description may address controls established under state law as well as local requirements.

B. A description of the existing program to identify illicit connections to the municipal storm sewer system. The description should include inspection procedures and methods for detecting and preventing illicit discharges and describe areas where this program has been implemented; and

6. Fiscal resources. A description of the financial resources currently available to the municipality to complete Part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets and sources of funds for storm water programs; and

(B) Part 2 of the application shall consist of—

1. Adequate legal authority. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant(s), at a minimum to—

A. Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm discharges associated with industrial activity, and the quality of storm water discharged from sites of industrial activity;

B. Prohibit through ordinance, order or similar means illicit discharges to the municipal separate storm sewer;

C. Control through ordinance, order, or similar means the discharge to a municipal separate storm sewer of spills, dumping, or disposal of materials other than storm water;

D. Control through interagency agreements among copetitioners the contribution of pollutants from one (1) portion of the municipal system to another portion of the municipal system;

E. Require compliance with terms and conditions in ordinances, permits, contracts, or orders; and

F. Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer;

2. Source identification. The location of any major outfall that discharges to waters of the state that was not reported under paragraph (4)(A)3. of this rule. Provide an inventory and a description (such as SIC codes) which best reflect the principal products or services provided by each facility which may discharge storm water associated with industrial activities to the municipal separate storm sewer;

3. Characterization data. When quantitative data for a pollutant are required under subparagraph (4)(B)3.A. of this rule, the applicant must collect a sample of effluent in accordance with 40 CFR 122.21(g)(7) and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR part 136. When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application including:

A. Quantitative data from representative outfalls or

field screening points designated by the director (based on information received in Part 1 of the application, the director shall designate between five (5) and ten (10) outfalls or field screening points as representative of the commercial, residential, and industrial land use activities of the drainage area contributing to the system or, where there are less than five (5) outfalls covered in the application, the director shall designate all outfalls or field screening points) developed as follows:

(I) For each outfall or field screening point designated under this part, samples shall be collected of storm water discharges from three (3) storm events occurring at least one (1) month apart;

(II) A narrative description shall be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge, and the duration between the storm event sampled and the end of the previous measurable (greater than one-tenth inch (0.1") rainfall) storm event;

(III) For samples collected and described under parts (4)(B)3.A.(I) and (II) of this rule, quantitative data shall be provided for the organic pollutants listed in Table II; the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of Appendix D of 40 CFR part 122 and for the following pollutants:

- (a) TSS;
- (b) Total dissolved solids (TDS);
- (c) COD;
- (d) BOD₅;
- (e) Oil and grease;
- (f) Fecal coliform;
- (g) Fecal streptococcus;
- (h) pH;
- (i) Total Kjeldahl nitrogen;
- (j) Nitrate plus nitrite;
- (k) Dissolved phosphorus;
- (l) Total ammonia plus organic nitrogen; and
- (m) Total phosphorus; and

(IV) Additional limited quantitative data required by the director for determining permit conditions. The director may require that quantitative data shall be provided for additional parameters and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to ensure representativeness;

B. Estimates of the annual pollutant load of the cumulative discharges to waters of the state from all identified municipal outfalls or field screening points and the event mean concentration of the cumulative discharges to waters of the state from all identified municipal outfalls or field screening points during a storm event as described under paragraphs (4)(A)3. and (4)(B)2. for BOD₅, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modeling, data analysis, and calculation methods;

C. A proposed schedule to provide estimates for each major outfall or field screening point identified in either paragraph (4)(A)3. or (4)(B)2. of this rule of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under subparagraph (4)(B)3.A. of this rule; and

D. A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is

representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment;

4. Proposed management program. A proposed management program covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination to reduce the discharge of pollutants to the maximum extent practicable using BMPs, control techniques and system, design and engineering methods, and other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each copetitioner. Proposed programs may impose controls on a system-wide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the director when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. These programs shall be based on—

A. A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing the controls. At a minimum, the description shall include:

(I) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers;

(II) A description of planning procedures including a comprehensive master plan to develop, implement, and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. The plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed;

(III) A description of practices for operating and maintaining public streets, roads, and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

(IV) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible;

(V) A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage, or disposal facilities for municipal waste which shall identify priorities and procedures for inspections and establishing and implementing control measures for the discharges. This program can be coordinated with the program developed under subparagraph (4)(B)4.D. of this rule; and

(VI) A description of a program to reduce to the maximum extent practicable pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors and controls for application in public right-of-ways and at municipal facilities;

B. A description of a program, including a schedule, to

detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate state operating permit) illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

(I) A description of a program including inspections, to implement and enforce an ordinance, orders, or similar means to prevent illicit discharges to the municipal separate storm sewer system. This program description shall address all types of illicit discharges, however the following categories of nonstorm water discharges or flows shall be addressed where the discharges are identified by the municipality as sources of pollutants to waters of the state: water line flushing, landscape irrigation, diverted stream flows, rising groundwaters, uncontaminated groundwater infiltration to separate storm sewers, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air-conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water. Program descriptions shall address discharges or flows from fire fighting only where the discharges or flows are identified as significant sources of pollutants to waters of the state;

(II) A description of procedures to conduct ongoing field screening activities during the life of the permit, including areas or locations that will be evaluated by field screens;

(III) A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of nonstorm water. These procedures may include: sampling procedures for constituents such as fecal coliform, fecal streptococcus, surfactants (MBAS), residual chlorine, fluorides, and potassium; and testing with fluorometric dyes or conducting in-storm sewer inspections where safety and other considerations allow. The description shall include the location of storm sewers that have been identified for the evaluation;

(IV) A description of procedures to prevent, contain and respond to spills that may discharge into the municipal separate storm sewer;

(V) A description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

(VI) A description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

(VII) A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

C. A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of SARA and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall—

(I) Identify priorities and procedures for inspections and establishing and implementing control measures for the discharges; and

(II) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in this part to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines

subcategories, where applicable; any pollutant listed in an existing state operating permit for a facility; oil and grease, COD, pH, BOD₅, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on parameters that are believed to be present listed on Clean Water Commission Application Form 105D; and

D. A description of a program to implement and maintain structural and nonstructural BMPs to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system which shall include:

(I) A description of procedures for site planning which incorporate consideration of potential water quality impacts;

(II) A description of requirements for nonstructural and structural BMPs;

(III) A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

(IV) A description of appropriate educational and training measures for construction site operators;

5. Assessment of controls. Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment also shall identify known impacts of storm water controls on groundwater;

6. Fiscal analysis. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs (4)(B)3. and 4. of this rule. The analysis shall include a description of the source of funds that is proposed to meet the necessary expenditures, including legal restrictions on the use of the funds;

7. Where more than one (1) legal entity submits an application, the application shall contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination;

8. Where requirements under paragraphs (4)(A)3. and 4. and (4)(B)2. and 3. of this rule are not practicable or are not applicable, the director may exclude any operator of a discharge from a municipal separate storm sewer which is designated under paragraph (1)(C)10. or 14. of this rule from these requirements. The director shall not exclude Independence, Kansas City, Springfield and St. Louis from any of the permit application requirements under this paragraph except where authorized under section (4) of this rule;

9. Petitions.

A. Any operator of a municipal separate storm sewer system may petition the director to require a separate state operating permit for any discharge into the municipal separate storm sewer system.

B. Any person may petition the director to require a state operating permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.

C. The owner or operator, or both, of a municipal separate storm sewer system may petition the director to reduce the census estimates of the population served by the separate system to account for storm water discharged to combined sewers that is treated in a publicly-owned treatment works. In municipalities in which combined sewers are operated, the census estimates of population may be reduced proportional to the fraction of the length of combined sewers over the sum of the length of combined sewers and

municipal separate storm sewers and an applicant has submitted the state operating permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

D. Any person may petition the director for the designation of a large or medium municipal separate storm sewer system as defined by paragraph (1)(C)10. or 14. of this rule.

E. The director shall make a final determination on any petition received under subparagraph (4)(B)9.C. within ninety (90) days after receiving the petition; and

10. Municipal separate storm sewer system reports. The operator of a municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the director under paragraph (1)(C)10. or 14. must submit an annual report by the anniversary of the date of the issuance of the permit for the system. The report shall include:

A. The status of implementing the components of the storm water management program that are established as permit conditions;

B. Proposed changes to the storm water management programs that are established as permit conditions;

C. Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application;

D. A summary of data, including monitoring data, that is accumulated throughout the reporting year;

E. Annual expenditures during reporting period and budget for year following each annual report;

F. A summary describing the number and nature of enforcement actions, inspections, and public education programs; and

G. Identifications of water quality improvements or degradation.]

(A) All Phase I large and medium MS4s were determined in accordance with the 1990 census. Application requirements for new Phase I large and medium MS4s based on the 1990 census were in accordance with 40 CFR 122.26(d), November 16, 1990, as published by the EPA Docket Center, EPA West 1301 Constitution Avenue NW., Washington, DC 20004, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions.

(B) Reapplication minimum requirements for large and medium MS4s are as follows:

1. Name and mailing address of the permittee(s) that operate the MS4;

2. Names and titles of the primary administrative and technical contacts for the municipal permittee(s);

3. Minimum application requirements as established in 40 CFR 122.21(f), April 1, 1983, as published by the EPA Docket Center, EPA West 1301 Constitution Avenue NW., Washington, DC 20004, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions;

4. Any proposed changes or improvements to the stormwater management program, including monitoring activities for the upcoming five (5) year term of the permit unless the proposed changes have already been submitted in the most recent annual report; and

5. If applicable, any changes in co-applicants/co-permittees.

(5) Application Requirements for Small Municipal Separate Storm Sewer (Small MS4) Discharges.

(D) Operating permits for Small MS4s will contain the minimum requirements as established in 40 CFR part 122.34, December 9, 2016, as published by the EPA Docket Center, EPA West 1301 Constitution Avenue NW., Washington DC, 20004, are incorporated by reference. This rule does not incorporate any

subsequent amendments or additions.

(6) Permit Requirements.

(A) The director may issue a general permit for storm water discharges in accordance with the following:

1. The general permit shall be written to cover a category of discharges described in the permit except those covered by individual permits within a geographic area. The area shall correspond to existing geographic or political boundaries, such as—

A. Designated planning areas under Sections 208 and 303 of the Federal Clean Water Act;

B. City, county, or state political boundaries or special sewer districts chartered by the state;

C. State highway systems; and

D. Any other appropriate division or combination of boundaries;

2. The general permit shall be written to regulate a category of point sources if the sources all—

A. Involve the same or substantially similar types of operations;

B. Discharge the same types of wastes;

C. Require the same operating conditions;

D. Require the same or similar monitoring; and

E. In the opinion of the director, are more appropriately controlled under a general permit than under individual permits;

3. General permits may be issued, modified, revoked, and reissued or terminated in accordance with applicable requirements of this rule and the permit. To be included under a general permit, a permittee must submit an application on forms supplied by the department;

4. The director may require any person authorized by a general permit to apply for and obtain an individual operating permit. Any interested person may petition the director to require a permittee to apply for an individual permit. Cases where an individual operating permit may be required include, but are not limited to, the following:

A. Effluent limitation guidelines are promulgated for point sources covered by a general state operating permit;

B. The discharge(s) is a significant contributor of pollutants. In making this determination, the director may consider the following factors:

(I) The location of the discharge with respect to waters of the state;

(II) The size of the discharge;

(III) The quantity and nature of the pollutants discharged to waters of the state; and

(IV) Other relevant factors;

C. The discharge(s) is a significant contributor of pollution which impairs the beneficial uses of the receiving stream;

D. The discharger is not in compliance with the conditions of the general operating permit; or

E. A water quality management plan containing requirements applicable to point sources is approved;

5. Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application with reasons supporting the request to the director. The request shall be granted by issuing an individual permit if the reasons cited by the owner or operator are adequate to support the request.

A. When an individual operating permit is issued to an owner or operator otherwise subject to a general operating permit, the applicability of the general permit to the individual operating permittee is automatically terminated on the effective date of the individual permit.

B. A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked and that it be issued a general permit. Upon revocation of the individual permit and issuance of the general permit to the permittee, the general permit shall apply to the source. The source

shall be included under the general permit only if it meets all the requirements for coverage under the general permit;

6. Petitions may be submitted to the director requesting the development of a general permit for a group of facilities or activities meeting the criteria listed in paragraph [(5)(A)1.] (2)(B)1.

A. Information required in a petition must include:

(I) A full description of the group including names, addresses, and locations and the industrial activities conducted by group members;

(II) Any significant materials stored, used, loaded, unloaded, treated, or disposed outdoors at these facilities;

(III) The existence and permit status of any other wastewater discharges from the group;

(IV) Analytical data which exists for any group members' storm water runoff;

(V) A summary of the history of spills, leaks, and complaints relating to significant materials used, stored, treated, or disposed of on these facilities; and

(VI) Management practices used to prevent or minimize materials contacting storm water.

B. Within ninety (90) days of receipt of the petition, the director shall notify the applicant that—

(I) A general permit will be developed;

(II) A general permit will not be developed and reason; or

(III) Further information is required to make a decision;

and

C. If the director has indicated that a general permit will be developed for specific facilities/activities, application for general permit as indicated in 10 CSR 20-6.010(13) may be submitted in lieu of an individual industrial storm water runoff permit application.

7. General permits shall *[contain BMP requirements and/or monitoring and reporting requirements to keep the storm water from being contaminated]* have conditions to meet any applicable technology or water quality based standard;

[8. A general permit will be issued to cover the geographical area of any city or county government that has a land disturbance program in place that has been approved by the department. The general permit will require that the person(s) disturbing the land comply with the conditions of the locally-approved land disturbance program. Permittees who wish to be covered by this general permit and who comply with the locally-approved program must submit a state general permit and a one hundred fifty dollar (\$150) permit fee to the department. Receipt of the application and fee shall fulfill the state permit requirements for the applicant. In the event the approval of the land disturbance program is withdrawn by the department, all activities started after the withdrawal must be permitted under either a site-specific permit or a statewide general permit that covers the activity if one exists; and]

[9.]8. A general permit will be issued to cover the geographical area of any city, county, or state government agency that performs or contracts for land disturbance activities[, if the agency has a storm water control program approved by the department]. The general permit will be issued for all activities that are conducted within the geographic area under contract by, or performed by, the city, county, or state agency. The applicant will need only to secure one (1) general permit for all activities that occur during the life of the permit. [In the event the approval of the land disturbance program is withdrawn by the department, all activities started after the withdrawal must be permitted under either a site-specific permit or a statewide general permit that covers the activity if one exists.]

[(C) Site-specific permits for system-wide or jurisdiction-wide separate storm sewers shall contain the following:

1. Identification of the permit holder;

2. BMP requirements that are proposed and approved in the city-wide management program; and

3. Monitoring and reporting requirements.

(D) Terms and Conditions of Permits.

1. All storm water discharges shall be consistent with the terms and conditions of the storm water permits.

2. For the purpose of inspecting, monitoring, or sampling the point source, water contaminant source, or storm water treatment facility for compliance with the Clean Water Law and these rules, the owner or operator of the land disturbance site shall allow authorized representatives of the department upon presentation of credentials and at reasonable times to—

A. Enter upon the premises in which a point source, water contaminant source, or storm water treatment facility is located, or in which any records are required to be kept under terms and conditions of the storm water permit;

B. Have access to or copy any records required to be kept under terms and conditions of the storm water permit;

C. Inspect any monitoring equipment or monitoring method required in the storm water permit;

D. Inspect any collection, treatment, or land application facility covered under the storm water permit; and

E. Sample any storm water at any point in the collection system or treatment process.

3. Any expansions or modifications which will result in new or different characteristics must be reported sixty (60) days before the storm water modification begins. Notification may be accomplished by application for a new storm water permit, or if the change will not significantly alter limitations specified in the permit, by submission of notice to the department of the change.

4. All reports required by the department shall be signed by a person designated in 10 CSR 20-6.010 or a duly authorized representative under 10 CSR 20-6.010.

5. Other terms and conditions shall be incorporated into the storm water permits if the department determines they are necessary to assure compliance with the Clean Water Law and regulations.]

AUTHORITY: sections 644.026], RSMo 2000] and [section] 644.036, RSMo [Supp. 2008] 2016. Original rule filed July 15, 1991, effective Oct. 1, 1992. Amended: Filed Sept. 14, 2001, effective May 30, 2002. Amended: Filed Feb. 3, 2009, effective Oct. 30, 2009. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Attn: Michael Abbott, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to Michael.abbott@dnr.mo.gov. Public comments must be received by August 23, 2018. The public hearing is scheduled for 10 a.m. on August 15, 2018, at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

PROPOSED AMENDMENT

10 CSR 20-6.300 Concentrated Animal Feeding Operations. The division is amending sections (2), (3), (4), (6), and (7), deleting subsections (7)(A), (7)(B), (7)(E), and (7)(F), and re-lettering accordingly.

PURPOSE: The department is amending this rule to comply with Executive Order 17-03 under the Red Tape Reduction Initiative and to improve clarity of the rule, reduce redundancy, and unneeded or overly burdensome requirements.

(2) Applicability and Application for Coverage.

(E) Operating Permit Applications. This section describes the application process and requirements for CAFO operating permits. A separate application for each operating location must be submitted to the department.

1. The department will not examine the adequacy or efficiency of the structural, mechanical, or electrical components of the waste management systems, only adherence to rules and regulations. The issuance of permits will not include approval of such features.

2. [Applications for general operating permits should be submitted at least ninety (90) days prior to the start of operation. Applications for site-specific operating permits shall be submitted at least one hundred eighty (180) days prior to the start of operation.] The application shall include at a minimum the following documents:

A. Title page of engineering report or similar document sealed by a professional engineer including name of the operation, date the report was prepared, name and address of firm preparing the report, seal and signature of the engineer, and a statement indicating the project was designed in accordance with 10 CSR 20-8.300;

B. Narrative project summary. This shall describe the existing and any proposed modifications to operating conditions including the number of confinement buildings or areas, the total design capacity in animal units and actual animal numbers for each type of animal, and an explanation of the existing and/or proposed modifications to the waste management system;

C. Include the amount of manure generated annually, storage volume, and days of storage of all manure storage structures, including mortality composters;

D. A recent aerial or topographic map showing the extent of the production area including;

(I) All existing and proposed confinement buildings, open lots, manure storage structures;

(II) Surface waters and areas subject to a one hundred (100) year flood event within or adjacent to the production area; and

(III) Production area setback distances in accordance with 10 CSR 20-8.300(5)(B);

E. Nutrient Management Plan—

(I) NPDES permit – applications shall include the operations' nutrient management plan; or

(II) State no-discharge permit –applications for a new permit shall include the operations' nutrient management plan;

F. Applications for Class I CAFOs shall also include:

(I) An aerial or topographic map that meets the requirement of 10 CSR 20-6.300(3)(C)4.;

(II) Proof of neighbor notice to all parties listed in 10 CSR 20-6.300(3)(C)2.

[3. For renewal of NPDES operating permits, a copy of the operations nutrient management plan shall be submitted if it has not previously been submitted.]

[4.]3. When an application is submitted incomplete or any of the required permit documents are deficient, or if additional information is needed including, but not limited to, engineering design plans, the department will act in one (1) of the following ways:

A. The department may return the entire permit application back to the applicant for re-submittal; or

B. The applicant and/or the applicant's engineer will be notified of the deficiency and will be provided time to address department

comments and submit corrections. Processing of the application may be placed on hold until the applicant has corrected identified deficiencies.

[5.]4. Applicants who fail to correct deficiencies and/or fail to satisfy all department comments after two (2) certified department comment letters shall have the application returned as incomplete and the permit fee(s) shall be forfeited. The department will grant reasonable time extensions when the applicant requests additional time to respond to department comments, however, such requests must be in writing and must occur within the time frame set by the department.

[6.]5. When the department has received all documents and information necessary for a properly completed operating permit application, including appropriate permit fees, the department will, review the application and said documents for compliance with this regulation and 10 CSR 20-8.300 and, if met, act in one (1) of the following ways:

A. For an operation seeking coverage under the state no-discharge general operating permit the department will issue the state no-discharge general operating permit; or

B. For an operation seeking coverage under the NPDES operating permit the department will post for fifteen (15) days on the department's webpage a notice of the pending CAFO NPDES permit. The notice will include an announcement of the opportunity for public review and comment on the CAFO's nutrient management plan and draft NPDES permit. The department will consider all comments before issuing the operating permit.

(3) Operating Permit Requirements. These requirements apply to all operating permits unless otherwise specified.

(B) Buffer Distances. **Buffer distances are to be in accordance with Section 640.710 RSMo. unless exempted below:**

[1. All Class I concentrated animal feeding operations shall maintain a buffer distance between the nearest animal confinement building or wastewater storage structure and any existing public building or occupied residence. The public building or occupied residence will be considered existing if it is being used prior to the start of the neighbor notice requirements of subsection (C) of this section or thirty (30) days prior to the date the department receives an operating permit application, whichever is later. Buffer distances shall be—

A. One thousand feet (1000') for concentrated animal feeding operations between 1,000 and 2,999 animal units (Class IC operations);

B. Two thousand feet (2,000') for concentrated animal feeding operations between 3,000 and 6,999 animal units (Class IB operations); and

C. Three thousand feet (3,000') for concentrated animal feeding operations equal to or greater than 7,000 animal units (Class IA).]

[2.]1. When a CAFO proposes an expansion or modification but does not increase to a larger classification size, the buffer distance requirements shall be applicable only to the proposed confinement buildings and wastewater storage structures unless exempted by paragraph [3.]2. of this subsection. Neighbor notice requirements of subsection (C) of this section shall apply to all existing and proposed confinement buildings and wastewater storage structures. If the proposed expansion or modification results in an increase to a larger classification size, the buffer distance and neighbor notice requirement of the larger classification size will apply to all existing and proposed confinement buildings and wastewater storage structures unless exempted by paragraph 4. of this subsection.

[3.]2. A concentrated animal feeding operation and any future modification or expansion of a CAFO is exempt from buffer distance requirements, but not neighbor notice requirements, when it meets all of the following criteria:

A. The CAFO was in existence prior to June 25, 1996; and

B. The CAFO does not expand to a larger classification size. [4.]3. When existing animal feeding operations or concentrated animal feeding operations expand to a larger class size, the buffer distances shall not apply to the portion of the operation in existence as of June 25, 1996.

[5.]4. Buffer distances are not applicable to residences owned by the concentrated animal feeding operation or a residence from which a written agreement for operation is obtained from the owner of that residence. When shorter buffer distances are proposed by the operation and allowed by the department, the written agreement for a shorter buffer distance shall be recorded with the county recorder and filed in the chain of title for the property of the land owner agreeing to the shorter buffer distance.

[6. The department may, upon review of the information contained in the operating permit application, including, but not limited to, the prevailing winds, topography, and other local environmental factors, authorize a buffer distance which is less than the distance prescribed in this rule. The department's recommendation shall be sent to the governing body of the county in which such site is proposed. The department's authorized buffer distance shall become effective unless the county governing body rejects the department's recommendation by a majority vote at the next meeting of the governing body after the recommendation is received.]

(C) Neighbor Notice Requirements. **Neighbor notice is to be conducted in accordance with section 640.715, RSMo.**

[1. Prior to filing an application for an operating permit with the department for a new or expanding Class I concentrated animal feeding operation, the following information shall be provided by way of a letter to all the parties listed in paragraph (3)(C)2. of this section:

A. The number of animals designed for the operation;

B. A brief summary of the waste handling plan and general layout of the operation;

C. The location and number of acres of the operation;

D. Name, address, and telephone number of registered agent or owner;

E. Notice that the department will accept written comments for a thirty- (30-) day period. The department will accept written comments from the public for thirty (30) days after receipt of the operating permit application; and

F. The address of the department office receiving comments.

2. The neighbor notice shall be provided to the following:

A. The department's Water Protection Program;

B. The county governing body; and]

[C.]1. [All adjoining owners of property located within one and one-half (1 1/2) times the buffer distances specified in subsection (3)(B).] Distances are to be measured from the nearest animal confinement building or wastewater storage structure to the adjoining property line.

[3.]2. [The operating permit applicant shall submit to the department proof of the above notification has been sent. An a)Acceptable forms of proof for submittal that neighbor notice was sent include copies of mail delivery confirmation receipts, return receipts, or other similar documentation.

[4.]3. All concentrated animal feeding operations shall submit, as part of the operating permit application, an aerial or topographic map of the production area. The maps shall show the operation layout, buffer distances, property lines, and property owners within one and one-half (1 1/2) times the buffer distance.

[5.]4. The neighbor notice will expire if an operating permit application has not been received by the department within twelve (12) months of initiating the neighbor notice requirements.

(F) Annual Reports. This section is required for NPDES operating permits only. **Annual reports shall comply with the federal regulation 40 CFR 122.42(e)(4), "Annual reporting requirements for**

CAFOs," Jan. 8, 2018, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which hereby incorporated by reference and does not include later amendments or additions.

[1. NPDES operating permits shall require the submission of an annual report that includes:

A. The number and type of animals confined at the operation;

B. Estimated amount of total manure, litter, and process wastewater generated by the operation in the previous twelve (12) months;

C. Estimated amount of total manure, litter, and process wastewater transferred to other persons by the operation in the previous twelve (12) months;

D. Total number of acres for land application covered by the nutrient management plan;

E. Total number of acres under control of the operation that were used for land application of manure, litter, and process wastewater in the previous twelve (12) months;

F. Summary of all manure, litter, and process wastewater discharges from the production area to waters of the state that have occurred in the previous twelve (12) months, including date, time, and approximate volume;

G. A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner; and

H. The actual crop(s) planted and actual yield(s) for each field, the actual nitrogen and phosphorus content of the manure, litter, and process wastewater, the data used to calculate and the results of annual calculations for maximum amount of manure, litter, and process wastewater to be applied, the amount of manure, litter, and process wastewater applied to each field during the previous twelve (12) months, the results of any soil tests for nitrogen and phosphorus taken during the previous twelve (12) months, and the amount of any supplemental fertilizer applied during the previous twelve (12) months.]

(H) Additional Requirements for Class IACAFOs only. **Conduct inspections in accordance with section 640.725, RSMo, in addition to the following:**

1. [The owner or operator of any Class IA concentrated animal feeding operation with a wet handling system which also utilizes a flush system shall employ one (1) or more persons who shall visually inspect the gravity outfall lines, recycle pump stations, recycle force mains, and appurtenances for any release to any containment structure. Visual inspections shall be made at least once per week. The inspections shall also include the structural integrity of the collection system and containment structures along with any unauthorized discharges from the flush and wet handling systems. Records shall be maintained by the facility for a minimum of three (3) years on forms approved by the department.

[2. Any unauthorized discharges that cross the property line of the facility, or enter the waters of the state from a Class IA concentrated animal feeding operation with a wet handling system that also utilizes a flush system, shall be reported to the department and to all adjoining property owners of the facility within twenty-four (24) hours.

3. Class IA concentrated animal feeding operation with a wet handling system which also utilizes a flush system shall receive at least one (1) on-site inspection by the department each quarter.

4. All Class IA concentrated animal feeding operations with a wet handling system which also utilizes a flush system shall have a secondary containment structure(s) or earthen dam(s). The Secondary containment structure(s) or earthen dam(s) shall be sized to contain a minimum volume equal to

the maximum capacity of flushing in any twenty-four- (24-) hour period from all gravity outfall lines, recycle pump stations, and recycle force mains.

[5. All Class IA concentrated animal feeding operations with a wet handling system which also utilizes a flush system shall have an electronic or mechanical shut-off in the event of pipe stoppage or backflow. For new facilities, the shut-off shall be included as part of the construction permit application.]

[6.]2. Class IA concentrated animal feeding operations (both new and those operations that wish to expand to Class IA size) are prohibited from the watersheds of the Current, Jacks Fork, and Eleven Point Rivers as described in 10 CSR 20-6.300(1)(B)9.D.

[7.]3. [The owner or operator shall visually inspect once per day any lagoon whose water level is less than twelve (12) inches from the emergency spillway. The inspection shall note the level of water below the emergency spillway.] A record of [these] inspections **when the water level is less than twelve (12) inches from the emergency spillway** shall be included with the operations annual report.

(4) Design Standards and Effluent Limitations.

(A) Effluent Limitations Applicable to All Class I CAFOs.

1. New and expanding CAFOs [that apply for an operating permit shall have manure, litter, and process wastewater management systems] shall designed and constructed in accordance with [the CAFO manure storage design standard rule] 10 CSR 20-8.300.

2. Effluent limits for subsurface waters shall be in accordance with 10 CSR 20-7.015(7)(E).

3. NPDES operating permits shall also comply with effluent limitations as set forth in 40 CFR Part 412, Subpart A through Subpart D, July 30, 2012, without any later amendments or additions, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which are hereby incorporated by reference.

4. There shall be no discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the land application of manure, litter, or process wastewater to land application areas under the operational control of the CAFO, except where it is an agricultural storm water discharge. When manure, litter, or process wastewater has been land applied in accordance with subsection (3)(G) of this rule, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of the CAFO is considered to be an agricultural storm water discharge.

5. A chronic weather event is a series of wet weather events and conditions that can delay planting, harvesting, and prevent land application and dewatering practices at wastewater storage structures. When wastewater storage structures are in danger of an overflow due to a chronic weather event, CAFO owners [shall] **should** take reasonable steps to lower the liquid level in the structure through land application, or other suitable means, to prevent overflow from the storage structure. Reasonable steps may include, but are not limited to, following the department's current guidance on "Wet Weather Management Practices for CAFOs." These practices [shall be] **are** designed specifically to protect water quality during wet weather periods. A discharge resulting from a land application conducted during wet weather conditions is not considered an agricultural stormwater discharge and is subject to permit requirements. The department will determine, within a reasonable time frame, when a chronic weather event is occurring for any given county in Missouri. The determination will be based upon an evaluation of the one-in-ten (1- in-10) year return rainfall frequency over a ten- (10-) day, ninety- (90-) day, one hundred eighty- (180-) day, and three hundred sixty five- (365-) day operating period.

(6) Closure of Waste Storage Structures.

(A) [Facilities] **Class I operations** that cease operation, or plan

to close lagoons and other waste storage structures, shall comply with **10 CSR 20-6.010** as well as the requirements in this section—

[1. *Class I concentrated animal feeding operations which cease operation shall continue to maintain a valid operating permit or until all lagoons and waste storage structures are properly closed according to a closure plan approved by the Department; and]*

[2.]1. Other concentrated animal feeding operations that cease operation shall either close the waste storage structures in accordance with the closure requirements in subsection (6)(B) of this rule or shall continue to maintain all storage structures so that there is not a discharge to waters of the state.

(B) Closure Requirements—

1. Lagoons and waste storage structures shall be closed by removal and land application of all wastewater and sludge;

2. *The removed wastewater and sludge shall be land applied* at agricultural rates for fertilizer not to exceed the maximum nutrient utilization of the land application site and vegetation grown and shall be applied at controlled rates so that there will be no discharge to waters of the state; and

[3.]2. After removal and proper land application of wastewater and sludge, the earthen basins may be demolished by removing the berms, grading, and establish at least seventy percent (70%) plant density over one hundred percent (100%) of the site so as to provide erosion control, or the basin may be left in place for future use as a farm pond or similar uses.

(7) Concentrated Animal Feeding Operation Indemnity Fund for **Class IA CAFO** in accordance with **section 640.740, RSMo**.

[*(A) Class IA concentrated animal feeding operations utilizing flush systems shall pay an annual fee of ten cents (10¢) per animal unit to the Department for deposit in the Concentrated Animal Feeding Operations Indemnity Fund.*

[*(B) The annual fee shall be based upon the animal unit permitted capacity of the facility.*

[*(C)](A) [The annual fee shall be collected each year for ten (10) years on the anniversary date of the operating permit.] For facilities permitted after June 25, 1996, the annual fee shall commence on the first anniversary of the operating permit. [The annual fee for facilities permitted prior to June 25, 1996, shall commence on the first full year anniversary of the permit following June 25, 1996.]*

[*(D)](B) [In the event the department determines that a Class IA facility has been successfully closed by the owner or operator, all monies paid by such operations into the Concentrated Animal Feeding Operation Indemnity Fund shall be returned to the operation.] In no event, [however,] shall [this] a refund exceed the unencumbered balance in the Concentrated Animal Feeding Operation Indemnity Fund.*

[*(E) The fees referenced in section (7) shall be paid by a check or money order and made payable to the State of Missouri, Concentrated Animal Feeding Operation Indemnity Fund. In the event a check used for the payment of operating fees is returned to the department marked insufficient funds, the person forwarding the check shall be given fifteen (15) days to correct the insufficiency.*

[*(F) Fees shall be submitted to Department of Natural Resources, Water Pollution Control Program, Permit Section, PO Box 176, Jefferson City, MO 65102.*

[*(G)](C) Each payment shall identify the following: state operating permit number, payment period, and permittee's name and address. Persons who own or operate more than one (1) operation may submit one (1) check to cover all annual fees, but are responsible for submitting the appropriate information to allow proper credit for each permit file account.*

[*(H)](D) Annual fees are the responsibility of the permittee. Failure to receive a billing notice is not an excuse for failure to remit the fees.*

AUTHORITY: sections 640.710[, RSMo 2000,] and [section] 644.026, RSMo [Supp. 2014] 2016. Original rule filed June 1, 1995, effective Jan. 30, 1996. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Attn: Greg Caldwell, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to greg.caldwell@dnr.mo.gov. Public comments must be received by August 23, 2018. The public hearing is scheduled for 10 a.m. on August 15, 2018, at the Department of Natural Resources, Elm Street Conference Center, Bennett Spring Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 7—Water Quality

PROPOSED AMENDMENT

10 CSR 20-7.015 Effluent Regulations. The division is amending subsections (1)(A), (2)(A), (2)(C), (3)(A), (3)(B), (3)(E), (3)(F), (4)(A), (4)(B), (4)(C), (5)(B), (6)(A), (7)(A), (8)(A), (8)(B), (9)(A)–(D), (9)(G), (9)(I), (9)(L), add subsection (3)(G), delete subsection (7)(D), and reletter as needed.

PURPOSE: This rule sets forth the limits for various pollutants which are discharged to the various waters of the state. The two previous rules 10 CSR 20-6.050 and 10 CSR 20-7.010 have been rescinded and this amendment combines certain aspects of both rules and modifies the format of the effluent regulations. This rule also complies with the latest changes to the Federal Clean Water Act, P.L. 97-117 (1981).

(1) Designations of Waters of the State.

(A) Definitions.

1. Acute Toxicity Test—a test used to determine the concentration of an effluent that causes an adverse effect (usually death) in a group of test organisms during a short-term exposure.

2. Allowable Effluent Concentration—the concentration of a toxicant or the parameter toxicity in the receiving water after mixing, sometimes referred to as the receiving water concentration or the in-stream waste concentration.

3. Chronic Toxicity Test—A short-term test, usually ninety-six (96) hours or longer in duration, in which sub-lethal effects such as reduced growth or reproduction rates are measured in addition to lethality.

4. Representative sample—a small quantity whose characteristics represent the nature and volume of the whole. *For permitting purposes representative sampling shall be consistent with] as described in 40 CFR Part 122.48 September 26, 1984, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions.*

5. Toxic Unit—a measure of effluent toxicity generally expressed as acute toxicity unit or chronic toxicity unit. The larger

the toxicity unit, the greater the toxicity.

6. Toxic Unit—Acute—one-hundred (100) times the reciprocal of the effluent concentration that causes fifty percent (50%) of the organisms to die in an acute toxicity test.

7. Toxic Unit—Chronic—one-hundred (100) times the reciprocal of the highest effluent concentration that causes no observable effect on or **inhibitions up to twenty-five (25%)** of the test organism in a chronic toxicity test.

(2) Effluent Limitations for the Missouri and Mississippi Rivers. In addition to the requirements of section (9) of this rule, the following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility.

(A) Discharges from wastewater treatment facilities which receive primarily domestic waste or from publicly-owned treatment works (POTWs) shall undergo treatment sufficient to conform to the following limitations:

1. Biochemical Oxygen Demand₅ (BOD₅) and Total Suspended Solids (TSS) equal to or less than a monthly average of thirty milligrams per liter (30 mg/L) and a weekly average of forty-five milligrams per liter (45 mg/L);

2. pH shall be maintained in the range from six to nine (6–9) standard units **in accordance with 40 CFR 133.102 “Secondary Treatment Regulation” October 16, 1984, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions;**

3. Exceptions to paragraphs (2)(A)1. and 2. of this rule are as follows:

A. If the facility is a wastewater lagoon, the TSS shall be equal to or less than a monthly average of eighty milligrams per liter (80 mg/L) and a weekly average of one hundred twenty milligrams per liter (120 mg/L) and the pH shall be maintained above 6.0, and the BOD₅ shall be equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L);

B. If the facility is a trickling filter plant the BOD₅ and TSS shall be equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L);

C. Where the use of effluent limitations set forth in this section is known or expected to produce an effluent that will endanger or violate water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams/. *When a waste load allocation is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the study in accordance with any applicable compliance schedule/;*

D. The department may require more stringent limitations than authorized in paragraphs (2)(A)1. and 2. and subparagraphs (2)(A)3.A., B., and C. of this rule under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD₅ and TSS limits based upon an analysis of the past performance, rounded up to the next five milligrams per liter (5 mg/L) range; and

(II) If the facility is a new facility, the department may set the BOD₅ and TSS limits based upon the design capabilities of the plant considering geographical and climatic conditions;

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD₅ equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L) and TSS equal to or less than a monthly average of seventy milligrams per liter (70 mg/L) and a weekly average of one hundred ten milligrams per liter (110 mg/L).

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent limitations should be BOD₅ and TSS equal to or less than a monthly average of forty milligrams per liter (40 mg/L) and a weekly average of sixty milligrams per liter (60 mg/L); **and**

[4. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and]

[5.]4. When the wastewater treatment process causes nitrification which affects the BOD₅ reading, the permittee can petition the department to substitute carbonaceous BOD₅ in lieu of regular BOD₅ testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD₅ at five milligrams per liter (5 mg/L) less than the regular BOD₅ in the operating permit.

(C) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow *[that shall require, at a minimum, one (1) wastewater sample per year for each fifty thousand (50,000) gallons per day (gpd) of effluent, or fraction thereof, except that—] and other site-specific factors. Sampling frequency shall not exceed once per day.*

[A. Point sources that discharge less than twenty-five thousand (25,000) gpd may only be required to submit an annual report;]

[B.]A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

[C.]B. Sludge sampling will be established in the permit.

[2. Sampling frequency shall be representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).]

[3.]2. [Sample] Unless otherwise specified in the operating permit, sample types shall be [as follows]:

A. *[Samples collected from] Grab samples for lagoons [may be grab samples] and recirculating media beds;*

B. *[Samples collected from] Twenty-four- (24-) hour composite samples for mechanical plants [shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit]; and*

C. Sludge samples will be grab samples unless otherwise specified in the operating permit.

[4.]3. The monitoring frequency and sample types stated in subsection (2)(C) of this rule are minimum requirements. [The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.]

(3) Effluent Limitations for the Lakes and Reservoirs.

(A) In addition to the requirements of section (9) of this rule, the following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility to a lake or reservoir designated in 10 CSR 20-7.031 as L2 and L3 which is publicly owned. Releases to lakes and reservoirs include discharges into streams one-half (1/2) stream mile (.80 km) before the stream enters the lake as measured to its conservation pool.

1. Discharges from wastewater treatment facilities which receive primarily domestic waste or from POTWs shall undergo treatment sufficient to conform to the following limitations:

A. BOD₅ and TSS equal to or less than a monthly average of twenty milligrams per liter (20 mg/L) and a weekly average of thirty milligrams per liter (30 mg/L);

B. pH shall be maintained in the range from six to nine (6–9) standard units **in accordance with 40 CFR 133.102 “Secondary Treatment Regulation” October 16, 1984, as published by the**

Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions;

C. Where the use of effluent limitations set forth in section (3) of this rule are reasonably expected to exceed applicable water quality standards, the department may either—conduct waste load allocation studies in order to arrive at a limitation which protects the water quality of the state or set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams/. *When a waste load allocation study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the waste load allocation study in accordance with any applicable compliance schedule;* and

[D. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and]

[E./D. When the wastewater treatment process causes nitrification which affects the BOD₅ reading, the permittee can petition the department to substitute carbonaceous BOD₅ in lieu of regular BOD₅ testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD₅ at five milligrams per liter (5 mg/L) less than the regular BOD₅ in the operating permit.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow *[that will require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—]* and other site-specific factors. **Sampling frequency shall not exceed once per day.**

[A. Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;]

[B./A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

[C./B. Sludge sampling will be established in the permit.

[2. Sampling frequency shall be representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).]

[3./2. [Sample] Unless otherwise specified in the operating permit, sample types shall be [as follows]:

A. *[Samples collected from] Grab samples for lagoons and recirculating media beds [may be grab samples];*

B. *[Samples collected from] Twenty-four- (24-) hour composite samples for mechanical plants [shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit]; and*

C. Sludge samples *[shall] will be grab samples unless otherwise specified in the operating permit.*

[4./3. The monitoring frequency and sample types stated in paragraphs (3)(B)1. through [3.] 2. of this rule are minimum requirements. [The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.]

(E) In addition to other requirements in this section, discharges to Lake Taneycomo and its tributaries between Table Rock Dam and Power Site Dam (and excluding the discharges from the dams) shall not exceed five tenths milligrams per liter (0.5 mg/L) of phosphorus as a monthly average. Discharges meeting both the following conditions shall be exempt from this requirement:

1. Those permitted prior to May 9, 1994; and

2. Those with design flows of less than twenty-two thousand five hundred (22,500) gpd. *[All existing facilities whose capac-*

ity is increased would be subject to phosphorus limitations.] The department may allow the construction and operation of interim facilities without phosphorus control provided their discharges are connected to regional treatment facilities with phosphorus control not later than three (3) years after authorization. *[Discharges in the White River basin and outside of the area designated above for phosphorus limitations shall be monitored for phosphorus discharges, and the frequency of monitoring shall be the same as that for BOD₅ and TSS, but not less than annually. The department may reduce the frequency of monitoring if the monitoring data is sufficient for water quality planning purposes.]*

(F) In addition to other requirements in this section, discharges to Table Rock Lake watershed, defined as hydrologic units numbered 11010001 and 11010002, shall not exceed five-tenths milligrams per liter (0.5 mg/L) of phosphorus as a monthly average *[except those existing discharges with design flows of less than twenty-two thousand five hundred (22,500) gpd permitted prior to November 30, 1999, unless the design flow is increased]. Discharges meeting both of the following conditions are exempt from this requirement.*

1. Those permitted prior to November 30, 1999; and

2. Those with design flows less than twenty-two thousand five hundred (22,500) gpd.

(G) Discharges in the White River basin and outside of the areas identified in (3)(E) and (F) of this section for phosphorus limitations shall be monitored for phosphorus discharges, and the frequency of monitoring shall be the same as that for BOD₅ and TSS, but not less than annually. The department may reduce the frequency of monitoring if the monitoring data is sufficient for water quality planning purposes.

(4) Effluent Limitations for Losing Streams.

(A) *[Discharges to losing streams shall be permitted only after other alternatives including land application, discharge] Prior to discharging to a losing stream, alternatives such as relocating the discharge to a gaining stream, and connection to a regional wastewater treatment facility [have been] are to be evaluated and determined to be unacceptable for environmental and/or economic reasons.*

(B) In addition to the requirements of section (9) of this rule, each permit for a discharge from a wastewater treatment facility to a losing stream, shall be written using the limitations contained in subsections (4)(B) and (C) of this rule in accordance with any applicable compliance schedule. Discharges from private wastewater treatment facilities which receive primarily domestic waste, industrial sources that treat influents containing significant amounts of organic loading, or POTWs permitted under this section shall undergo treatment sufficient to conform to the following limitations:

1. BOD₅ equal to or less than a monthly average of ten milligrams per liter (10 mg/L) and a weekly average of fifteen milligrams per liter (15 mg/L);

2. TSS equal to or less than a monthly average of fifteen milligrams per liter (15 mg/L) and a weekly average of twenty milligrams per liter (20 mg/L);

3. pH shall be maintained in the range from six to nine (6–9) standard units in accordance with 40 CFR 133.102 “Secondary Treatment Regulation” October 16, 1984, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions;

4. All chlorinated effluent discharges to losing streams or within two (2) stream miles flow distance upstream of a losing stream shall also be dechlorinated prior to discharge;

[5. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in

accordance with a sludge management practice approved by the department];

[6.]5. When the wastewater treatment process causes nitrification which affects the BOD₅ reading, the permittee can petition the department to substitute carbonaceous BOD₅ in lieu of regular BOD₅ testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD₅ at five milligrams per liter (5 mg/L) less than the regular BOD₅ in the operating permit; and

[7.]6. For situations in which nitrates in a discharge can be reasonably expected to impact specific drinking water wells, the concentration of nitrates in the discharge shall be limited to an average monthly limit of ten milligrams per liter (10 mg/L) as nitrogen and a maximum daily limit of twenty milligrams per liter (20 mg/L). Applicants may conduct a study in the same manner as the Missouri Risk-Based Corrective Action Technical Guidance published in 2006 to determine if nitrate limits are necessary to protect groundwater. In such cases, applicants shall submit a study plan for approval prior to the study, and submit all findings as part of their permit application.

(C) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow *[that shall require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—]* and other site-specific factors. **Sampling frequency shall not exceed once per day.**

[A. Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;]

[B.]A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

[C.]B. Sludge samples will be established in the permit.

[2. Sampling frequency shall be representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).]

[3.]2. Unless otherwise specified in the operating permit, [S/sample types shall be *[as follows]*:

A. *[Samples collected from] Grab samples for lagoons and recirculating [sand filters may be grab samples] media beds;*

B. *[Samples collected from] Twenty-four- (24-) hour composite samples for mechanical plants [shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit];* and

C. Sludge samples *[shall]* will be a grab sample unless otherwise specified in the operating permit.

[4.]3. The monitoring frequency and sample types stated in paragraphs (4)(C)1. through [3.] 2. of this rule are minimum requirements. *[The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.]*

(5) Effluent Limitations for Metropolitan No-Discharge Streams.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow *[that shall require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—]* and other site-specific factors. **Sampling frequency shall not exceed once per day.**

[A. Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report.]

[B.]A. *[Point sources that discharge more than one point three (1.3) mgd will be required, at a minimum, to collect fifty-two (52) wastewater samples per year.]* The department may establish less frequent sampling requirements for point

sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

[C.]B. Sludge sampling will be established in the permit.

[2. Sampling frequency shall be representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).]

[3.] 2. Unless otherwise specified in the operating permits, [S/sample types shall be *[as follows]*:

A. *[Samples collected from] Grab samples for lagoons [may be grab samples] and recirculating media beds;*

B. *[Samples collected from] Twenty-four- (24-) hour composite samples for mechanical plants [shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit];* and

C. Sludge samples *[shall]* will be a grab sample unless otherwise specified in the operating permit.

[4.]3. The monitoring frequency and sample types stated in paragraphs (5)(B)1. through [3.] 2. of this rule are minimum requirements. *[The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.]*

(6) Effluent Limitations for Special Streams.

(A) Limits for Outstanding National Resource Waters as listed in Table D of 10 CSR 20-7.031 and Drainages Thereto.

1. In addition to the requirements of section (9) of this rule, the following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility to waters included in this section.

2. Discharges from wastewater treatment facilities, which receive primarily domestic waste, or from POTWs are limited as follows:

A. New releases from any source are prohibited;

B. Discharges from sources that existed before June 29, 1974, or if additional stream segments are placed in this section, discharges that were permitted at the time of the designation will be allowed.

3. Industrial, agricultural, and other non-domestic contaminant sources, point sources, or wastewater treatment facilities which are not included under subparagraph (6)(A)2.B. of this rule shall not be allowed to discharge. *[Agrichemical facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agrichemical facility, all transferring, loading, unloading, mixing, and repackaging of bulk agrichemicals shall be conducted in an operational area.]* All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner.

4. Monitoring requirements.

A. The department will develop a wastewater and sludge sampling program based on design flow *[that will require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—]* and other site-specific factors. **Sampling frequency shall not exceed once per day.**

[I] *[Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;]*

[III](I) *[Point sources that discharge more than one point three (1.3) mgd will be required at a minimum to collect fifty-two (52) wastewater samples per year.]* The department may establish less frequent sampling requirements for point

sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit;
[(III)](II) Sludge sampling will be established in the permit.

[B. Sampling frequency shall be representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).]

[C.]B. Unless otherwise specified in the operating permit, [S]sample types shall be [as follows]:

(I) [Samples collected from] Grab samples for lagoons [may be grab samples] and recirculating media beds;

(II) [Samples collected from] Twenty-four- (24-) hour composite samples for mechanical plants [shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit]; and

(III) Sludge samples [shall] will be a grab sample unless otherwise specified in the operating permit.

[D.]C. The monitoring frequency and sample types stated in subparagraphs (6)(A)4.A. through [C.] B. of this rule are minimum requirements. [The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.]

(7) Effluent Limitations for Subsurface Waters.

(A) No person shall release any water into aquifers, store or dispose of water in a way which causes or permits it to enter aquifers either directly or indirectly unless it meets the requirements of section (9) of this rule and it meets the appropriate groundwater protection criteria set in 10 CSR 20-7.031, Table A at a point ten feet (10') under the release point, or other compliance point based on site specific considerations, except as provided in subsection[s] (7)[(E) and (F)](D) of this rule. The permit writer shall review the complete application and other data to determine which parameter to include in the permit.

[(D) Where any wastewater treatment facility or any water contaminant source or point source incorporates the use of land treatment systems which allows or can reasonably be expected to allow wastewater effluents to reach the aquifer. Compliance with subsection (7)(A) of this rule shall be determined by a site-specific monitoring plan.]

[(E)](D) The effluent limitations specified in subsection (7)(A) of this rule shall not apply to facilities designed and constructed to meet department design criteria provided these designs have been reviewed and approved by the department. The department has the right to require monitoring, reporting, public notice, and other information as deemed appropriate. This exemption may be revoked by the department should any monitoring indicate an adverse effect on a beneficial water use or if the numeric criteria in the Water Quality Standards are being exceeded.

[(F)](E) Any person not included in subsection (7)[(E)](D) of this rule who releases, stores, or disposes of water in a manner which results in releases of water to an aquifer having concentrations in excess of one (1) or more parameter limitations provided in subsection (7)(A) of this rule may be allowed to resample for purposes of verification of the excess. At their discretion, persons may demonstrate, at the direction of the department, that the impact on the water quality in the aquifer is negligible on the beneficial uses. The demonstration shall consider, at a minimum, the following factors:

1. Site geology;
2. Site geohydrology;
3. Existing and potential water uses;
4. Existing surface water and groundwater quality;
5. Characteristics of wastes or wastewater contained in facilities; and
6. Other items as may be required by the department to assess the proposal.

A. Demonstrations conducted under 10 CSR 25-18.010 shall be reviewed by the department in accordance with such rules. If the

demonstrations show that the impact on groundwater quality will not result in an unreasonable risk to human health or the environment, alternate effluent limitations will be established by the department.

B. All other demonstrations shall be reviewed by the department. If the demonstrations show that the impact on groundwater quality will not result in an unreasonable risk to human health or the environment, alternate effluent limitation(s) will be proposed by the department and presented to the Clean Water Commission for approval. The Clean Water Commission has the right to require monitoring, reporting, public notice, and other information as deemed appropriate in the approval of the alternate limitation for one (1) or more parameters from subsection (7)(A) of this rule. The Clean Water Commission may hold a public hearing to secure public comment prior to final action on an alternate limitation.

C. No alternate limitations will be granted which would impair beneficial uses of the aquifer or threaten human health or the environment.

D. Alternate limitations may be revoked by the department should any monitoring indicate an adverse effect on a beneficial water use or violations of the alternate limitation.

(8) Effluent Limitations for All Waters, Except Those in Paragraphs (1)(B)1.-6. of This Rule. In addition to the requirements of section (9) of this rule, the following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility.

(A) Discharges from wastewater treatment facilities which receive primarily domestic waste or POTWs shall undergo treatment sufficient to conform to the following limitations:

1. BOD₅ and TSS equal to or less than a monthly average of thirty milligrams per liter (30 mg/L) and a weekly average of forty-five milligrams per liter (45 mg/L);

2. pH shall be maintained in the range from six to nine (6-9) standard units in accordance with 40 CFR 133.102 "Secondary Treatment Regulation" October 16, 1984, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions;

3. The limitations of paragraphs (8)(A)1. and 2. of this rule will be effective unless an alternate limitation will not cause violations of the Water Quality Standards or impairment of the uses in the standards. When an Antidegradation Review has been completed for new or expanded discharges, the following alternate limitation may also be allowed:

A. If the facility is a wastewater lagoon, the TSS shall be equal to or less than a monthly average of eighty milligrams per liter (80 mg/L) and a weekly average of one hundred twenty milligrams per liter (120 mg/L) and the pH shall be maintained above six (6.0) and the BOD₅ shall be equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L);

B. If the facility is a trickling filter plant, the BOD₅ and TSS shall be equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L);

C. Where the use of effluent limitations set forth in section (8) of this rule is known or expected to produce an effluent that will endanger water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams/. When a waste load allocation study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the waste load allocation study in accordance with any applicable compliance schedule]; and

D. The department may require more stringent limitations than authorized in paragraphs (8)(A)1. and 2. and subparagraphs (8)(A)3.A., B., and C. of this rule under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD₅ and TSS limits based upon an analysis of the past performance, rounded up to the next five milligrams per liter (5 mg/L) range; and

(II) If the facility is a new facility the department may set the BOD₅ and TSS limits based upon the design capabilities of the plant considering geographical and climatic conditions:

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD₅ equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L) and TSS equal to or less than a monthly average of seventy milligrams per liter (70 mg/L) and a weekly average of one hundred ten milligrams per liter (110 mg/L); or

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent limitations should be BOD₅ and TSS equal to or less than a monthly average of forty milligrams per liter (40 mg/L) and a weekly average of sixty milligrams per liter (60 mg/L); **and**

[4. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and]

[5.]4. When the wastewater treatment process causes nitrification which affects the BOD₅ reading, the permittee can petition the department to substitute carbonaceous BOD₅ in lieu of regular BOD₅ testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD₅ at five milligrams per liter (5 mg/L) less than the regular BOD₅ in the operating permit.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow *[that will require, at a minimum, one (1) wastewater sample per year for each fifty thousand (50,000) gpd of effluent, or fraction thereof, except that—]* **and other site-specific factors. Sampling frequency shall not exceed once per day.**

[A. Point sources that discharge less than twenty-five thousand (25,000) gpd may only be required to submit an annual report;]

[B.]A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

[C.]B. Sludge sampling will be established in the permit.

[2. Sampling frequency shall be representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc..)]

[3.]2. Unless otherwise specified in the operating permit, [S]sample types shall be [as follows]:

A. *[Samples collected from] Grab samples for lagoons [may be grab samples] and recirculating media beds;*

B. *[Samples collected from] Twenty-four- (24-) hour composite samples for mechanical plants [shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit]; and*

C. Sludge samples *[shall]* **will** be a grab sample unless otherwise specified in the operating permit.

[4.]3. The monitoring frequency and sample types stated in paragraphs (8)(B)1. through [3.] 2. of this rule are minimum requirements. [The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.]

(9) General Conditions.

(A) Establishing Effluent Limitations. Unless a formal variance from water quality standards have been approved by the Clean Water Commission and the U.S. Environmental Protection Agency, operat-

ing permits *[as required]* issued under 10 CSR 20-6.010/(5)/(7) shall include, if applicable, the most protective limits set forth as follows:

1. Technology-based effluent limits and standards based on specific requirements under sections (2) through (8) of this rule;

2. Water quality-based effluent limits based on a waste load allocation in accordance with federal regulations (40 CFR 122.44(d)(1)), which would address pollutants that have a reasonable potential to cause or contribute to an excursion above Water Quality Standards established in 10 CSR 20-7.031.

A. Local effluent and receiving water data may be used to develop site specific effluent limits provided the department determines that this data is representative and 10 CSR 7.031 provides for their development;

B. Water quality-based effluent limitations incorporating mixing zones and zones of initial dilution as provided for in 10 CSR 20-7.031(5)(A)4.B. may be based on stream flows other than critical low-flow conditions, if the following conditions are met:

(I) The limits are protective of critical low-flow conditions, as well as higher flow conditions; and

(II) The permit shall require in-stream flow measurements and methods to determine compliance;

3. Effluent limit guidelines or standards that have been federally promulgated under Sections 301, 304, 306, 307, 318, and 405 of the Clean Water Act and case-by-case determinations of technology-based effluent limitations under section 402(a)(1) of the Clean Water Act;

4. Effluent limits *[prescribed for pollutants under] for discharges subject to a TMDL, as required under Section 303(d)(1)(C) of the Clean Water Act,* necessary to achieve water quality standards, including permit limits in lieu of a TMDL. *[TMDL waste load allocations] Permit limitations consistent with the requirements and assumptions of an approved waste load allocation within a TMDL shall be placed in permits [at renewal, and in subsequent renewals] as needed. Permits may include schedules of compliance and, if developed, follow TMDL implementation plans, adaptive management approaches or other flexibilities so long as they are allowed by federal regulation. The department may reopen existing permits to implement TMDL requirements;*

5. Effluent limits that are developed through the antidegradation review process, provided there is reasonable potential to exceed these limits; **and**

[6. Effluent limits prescribed for stormwater discharges as required under 10 CSR 20-6.200 Storm Water Regulations; and]

[7.]6. Effluent Limits that are required as a result of legal agreements between dischargers and the department or the Clean Water Commission, or as otherwise required or allowed by law.

(B) Bacteria and Statewide Nutrient Limits. Operating Permits as required under 10 CSR 20-6.010/(5)/(7) shall include, if applicable, the following bacteria and nutrient limits:

1. Bacteria. The following water quality *Escherichia coli* (*E. coli*) discharge limits apply:

A. Discharges to stream segments designated in Table H of 10 CSR 20-7.031 for whole body contact recreation and secondary contact recreation shall not exceed the water quality *E. coli* counts established in subsection (5)(C) of 10 CSR 20-7.031;

B. Discharges to lakes designated as whole body contact recreational or secondary contact recreational in Table G of 10 CSR 20-7.031 shall not exceed the water quality *E. coli* counts established in subsection (5)(C) of 10 CSR 20-7.031;

[C. Discharges to privately-owned lakes classified as L3, as defined in subsection (1)(F) of 10 CSR 20-7.031, that are designated as whole body contact recreational or secondary contact recreational in Table G of 10 CSR 20-7.031 shall not exceed the water quality E. coli counts established in subsection (5)(C) of 10 CSR 20-7.031. Discharges include releases into streams one-half (1/2) stream mile (.80 km)

before the stream enters the lake as measured to its conservation pool;]

[D.]C. Discharges located within two (2) miles upstream of stream segments or lakes designated for whole body contact recreational or secondary contact recreational in Tables H and G of 10 CSR 20-7.031 shall not exceed the water quality *E. coli* counts established in subsection (5)(C) of 10 CSR 20-7.031 for the receiving stream segment or lake designated for those uses;

[E.]D. [Short-term] *E. coli* limits. During the recreation season, discharges to waters designated for whole body contact "A" as defined in part (1)(C)2.A.(I) of 10 CSR 20-7.031 shall be limited to [six hundred thirty (630)] **one hundred twenty-six (126)** colony forming units per one hundred (100) milliliters (ml) expressed as a [weekly] **monthly** geometric mean for POTWs and [as a daily maximum for] non-POTWs. During the recreation season, discharges to waters designated for whole body contact "B" as defined in part (1)(C)2.A.(II) of 10 CSR 20-7.031 shall be limited to [one thousand thirty (1,030)] **two hundred six (206)** colony forming units per one hundred (100) ml expressed as a [weekly] **monthly** geometric mean for POTWs and [as a daily maximum for] non-POTWs. During the recreation season, discharges to waters designated for secondary contact recreational as defined in subparagraph (1)(C)9.J2.B. of 10 CSR 20-7.031 shall be limited to one thousand one hundred thirty-four (1,134) colony forming units per one hundred (100) ml expressed as a [weekly] **monthly** geometric mean for POTWs and [as a daily maximum for] non-POTWs. For the entire calendar year, discharges to waters that are defined by paragraph (1)(B)3. of this rule as losing streams shall be limited to one hundred twenty-six (126) colony forming units per one hundred (100) ml expressed as a daily maximum;

E. Short-term *E. coli* limits. Short-term effluent limitations shall be expressed as a daily maximum for non-POTWs and as a weekly geometric mean for POTWs. Short-term effluent limitations for discharges to waters designated for whole body contact "A" and "B" as well as those designated for secondary contact recreation shall be derived by multiplying the monthly geometric mean effluent limitations identified in (9)(B)D. of this rule by a factor of five (5), except that alternative multipliers may be utilized to calculate short-term *E. coli* limitations when proposed and incorporated into permits. At no time shall using alternative multipliers in short-term effluent limitations cause or contribute to an excursion of the in-stream water quality criteria.

F. As an alternative to the limits prescribed in subparagraphs (9)(B)1.A. through E. of this rule, the department may allow permit applicants to conduct a study to develop *E. coli* limits that reflect pathogen decay. Prior to conducting this study applicants shall submit a quality assurance project plan for approval prior to the study, and submit all findings as part of their permit application; and

G. Notwithstanding the bacteria limits prescribed in paragraphs (9)(1)A. through F. of this rule, discharges to losing streams shall be considered in compliance so long as no more than ten (10) percent of samples exceed one hundred twenty-six (126) colony forming units per one hundred (100) ml daily maximum;

2. Nutrients. Reserved for Statewide Nutrient Effluent Limits.

(C) Schedules of Compliance.

1. Compliance with new or revised National Pollutant Discharge Elimination System (NPDES) or Missouri operating permit limitations shall be achieved and in accordance with the federal regulation 40 CFR Part 122.47, "Schedules of Compliance," May 15, 2000, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which is hereby incorporated by reference and does not include later amendments or additions.

[2. If any permit allows a time for achieving final compliance from the date of permit issuance, the schedule of compliance in the permit shall set forth interim requirements and the dates for their achievement. The time between interim dates shall not exceed one (1) year, except that in the

case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six (6) months.

3. Within fourteen (14) days following each interim date and the final date of compliance, the permittee shall provide the department with written notice of the permittee's compliance or noncompliance with the interim or final requirement for the dates.]

[4.]2. A compliance schedule may be modified [if the department determines good cause exists such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonable remedy. Applicants may request a modification by providing appropriate justification. In no case shall the compliance schedule be modified to extend beyond an applicable statutory deadline.] in accordance with the federal regulation 40 CFR 122.62 "Modification or revocation and reissuance of permits," November 20, 2008, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions.

(D) Monitoring, Analysis, and Reporting.

1. All construction and operating permit holders shall submit reports at intervals established by the permit or at any other reasonable intervals required by the department. The monitoring and analytical schedule shall be as established by the department in the operating permit.

2. The analytical and sampling methods used must conform to [the following reference methods unless alternates are approved by the department:] federal regulation 40 CFR Part 136.3 "Identification of test procedures," August 28, 2017, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions.

[A. Standard Methods for the Examination of Waters and Wastewaters (14, 15, 16, 17, 18, 19, 20, and 21st Edition), published by the Water Environment Federation, 601 Wythe Street, Alexandria, VA 22314;

B. Water Testing Standards, Vol. 11.01 and 11.02, published by American Society for Testing and Materials, West Conshohocken, PA 19428;

C. Methods for Chemical Analysis of Water and Wastes (EPA- 600/4-79-020), published by the Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, OH 54202; and

D. NPDES Compliance Sampling Inspection Manual, (EPA-305-X-04-001), published by Environmental Protection Agency, Office of Enforcement and Compliance Assurance 1200 Pennsylvania Avenue, N.W., Washington, DC 20460 (July 2004).]

3. Approval of alternative test procedures shall follow the criteria set forth in federal regulation 40 CFR 136.4 "Application for and approval of alternate test procedures for nationwide use," August 28, 2017, as published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or federal regulation 40 CFR 136.5 "Approval of alternate test procedures for limited use," August 28, 2017, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408, which are incorporated by reference and do not include later amendments or additions.

[3.]4. Sampling and analysis by the department to determine violations of this regulation will be conducted in accordance with the methods listed in paragraph (9)(D)2. of this rule or any other approved by the department. Violations may be also determined by

review of the permittee's self-monitoring reports.

[4.]5.If, for any reason, the permittee does not comply with or will be unable to comply with any discharge limitations or standards specified in the permit, the permittee shall provide the department with the following information, with the next discharge monitoring report as required under subsection (9)(D) of this rule:

A. A description of the discharge and cause of noncompliance;

B. The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and

C. The steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

[5.]6. In the case of any discharge subject to any applicable toxic pollutant effluent standard under Section 307(a) of the federal Clean Water Act, the information required by paragraph (9)(D)4. of this rule regarding a violation of this standard shall be provided within twenty-four (24) hours from the time the owner or operator of the water contaminant source, point source, or wastewater treatment facility becomes aware of the violation or potential violation. This information may be provided via an electronic web-based system developed by the department, provided it is available. If this information is provided orally, a written submission covering these points shall be provided within five (5) working days of the time the owner or operator of the water contaminant source, point source, or wastewater treatment facility becomes aware of the violation.

[6.]7. Bacteria Monitoring for Disinfection.

A. For systems that have a design capacity of greater than one hundred thousand (100,000) gpd, a minimum of one (1) sample shall be collected for *E. coli* analysis each calendar week during the recreational season from April 1 through October 31. Compliance with the *E. coli* water quality standard established in subsection (5)(C) of 10 CSR 20-7.031 shall be determined each calendar month by calculating the geometric mean of all of the samples collected each calendar month. Compliance with the short-term *E. coli* limits established in subparagraph (9)(B)1.E. of this rule shall also be determined.

B. For systems that discharge to stream segments that are defined by paragraph (1)(B)3. as losing streams and have a design capacity of greater than one hundred thousand (100,000) gpd, a minimum of one (1) sample shall be collected for *E. coli* analysis each calendar week all year. Compliance with the *E. coli* water quality standard established in subsection (5)(C) of 10 CSR 20-7.031 and with the short term *E. coli* limits established in subparagraph (9)(B)1.E. of this rule shall also be determined.

C. For systems that have a design capacity of one hundred thousand (100,000) gpd or less, the sampling frequency for *E. coli* analysis shall be in accordance with the wastewater and sludge sampling program based on the design flow which is dependent upon the receiving water category as listed in subsection (1)(B) of this rule. Compliance with the *E. coli* water quality standard established in subsection (5)(C) of 10 CSR 20-7.031 shall be determined each calendar month by calculating the geometric mean of all of the samples collected each calendar month. Compliance with the short-term *E. coli* limits established in subparagraph (9)(B)1.E. of this rule shall also be determined.

[7.]8. Statewide Monitoring for Nutrients. Point sources that have the design capacity of greater than one hundred thousand (100,000) gpd that typically discharge nitrogen and phosphorus shall collect and analyze [a minimum of one (1) effluent sample each calendar quarter for one (1) permit cycle or up to (5) five years if the first permit term is less than five (5) years. The samples shall be analyzed for total nitrogen and total phosphorus using EPA approved test methods. This provision shall not limit the department from imposing ongoing or more frequent monitoring in permits that impose effluent limits for total nitrogen or total phosphorus or in situations in which monitoring is appropriate to ensure compliance

with water quality standards. The quarterly monitoring frequency for total phosphorus does not apply to dischargers that are subject to the specific lake limits and monitoring requirement specified under subsections (3)(E) and (F) of this rule.] influent and effluent samples for total phosphorus, ammonia, total kjeldahl nitrogen and nitrate plus nitrite utilizing methods outlined in (D)2. of this section using the following frequencies:

A. Quarterly for facilities with design capacities greater than one hundred thousand (100,000) gpd and less than one million (1,000,000) gpd per day for a period up to five (5) years. The department may require additional monitoring to ascertain a discharge's nutrient contribution and the efficacy of the treatment technology as it pertains to nutrient removal.

B. Monthly for facilities with design capacities greater than or equal to one million (1,000,000) gpd for a period up to five (5) years. The department may require additional monitoring to ascertain a discharge's nutrient contribution and the efficacy of the treatment technology as it pertains to nutrient removal.

C. The department may impose ongoing or more frequent monitoring in permits that impose effluent limits for total nitrogen or total phosphorus or in situations in which monitoring is appropriate to ensure compliance with water quality standards or specific lake limits specified under subsection (3)(E) and (F) of this rule.

(G) Bypass. Bypass means the intentional diversion of waste streams from any portion of a treatment facility, except in the case of blending. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. Blending is the practice of diverting wet-weather flows around any treatment unit and recombining those flows within the treatment facility, while providing primary and secondary or biological treatment up to the available capacity, consistent with all applicable effluent limits and conditions. **Stipulations regarding bypass allowances, prohibitions and reporting requirements shall comply with federal regulation 40 CFR 122.41 "Conditions applicable to all permits (applicable to state programs, See section 123.25), October 22, 2015, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408, which are incorporated by reference and do not include later amendments or additions.**

[1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (9)(G)3. and 4. of this rule.

2. Notice.

A. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the department, if possible at least ten (10) days before the date of the bypass.

B. Unanticipated bypass. The permittee shall notify the department by telephone within twenty-four (24) hours and follow with a written report within five (5) days from the time the permittee becomes aware of the circumstances of all bypasses or shutdowns that result in a violation of permit limits or conditions and which may endanger human health or the environment. The twenty-four (24)-hour and five (5) day reports may be provided via an electronic web-based system developed by the department, provided it is available, or by facsimile machine. POTWs that bypass during storm water inflow and infiltration events need only report on their

discharge monitoring reports so long as the bypass does not result in violations of permit limits or conditions or endanger human health or the environment.

3. *Prohibition of bypass. Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:*

A. *Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;*

B. *There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and*

C. *The permittee submitted notices as required under paragraph (9)(G)2. of this rule.*

4. *The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three (3) conditions listed in paragraph (9)(G)3. of this rule.]*

(I) Industrial, agricultural, and other nondomestic water contaminant sources, point sources, or wastewater treatment facilities which are not included under subsections (2)(B) or (8)(B) of this rule—

1. These facilities shall meet the applicable control technology currently effective as published by the EPA in 40 CFR 405–471. Where there are no standards available or applicable, the department shall set specific parameter limitations using best professional judgment. The pH shall be maintained in the range from six to nine (6–9) standard units, except that discharges of uncontaminated cooling water and water treatment plant effluent may exceed nine (9) standard units, but may not exceed ten and one-half (10.5) standard units, if it can be demonstrated that the pH will not exceed nine (9) standard units beyond the regulatory mixing zone; and

2. *[Agrichemical facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agrichemical facility, the following procedures shall be conducted in an operational area: all transferring, loading, unloading, mixing, and repackaging of bulk agrichemicals.]* All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner or treated to meet the applicable control technology referenced in paragraph (9)(I)1. of this rule.

(L) Whole Effluent Toxicity (WET) Test. The following are permit requirements for acute and chronic WET tests:

1. WET tests *[are required under 10 CSR 20-6.010(8)(A)4. and]* are to be conducted according to the methods prescribed in 40 CFR 136.3;

2. Test Types.

A. Acute WET tests shall be a multiple dilution series, static, non-renewal test to determine the degree at which acute forty-eight to ninety-six hour (48–96 hour) exposure to the effluent is acutely toxic to aquatic life expressed in species survival.

B. Chronic WET test shall be a multiple dilution series, static, renewal test to determine the degree at which chronic (sub lethal) exposure to the effluent is toxic to aquatic life or affects an alternative endpoint such as species reproduction and/or growth. Duration of chronic WET tests shall be established according to 40 CFR 136.3 Identification of test procedures, promulgated as of July 1, 2011, is 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;

3. Applicability. WET test type and frequency shall be determined and expressed in permits by the department. At permit issuance or reissuance, the department will use valid and representative data to establish on a case-by-case basis, whether an existing discharge causes, has the reasonable potential to cause, or contributes to an excursion from the narrative water quality criteria. Where the department concludes that a discharge has the reasonable potential to contribute to an excursion from the narrative water quality criteria, as established in 10 CSR 20-7.031 the permit will include WET limits. If the department determines the facility has no reasonable potential to violate water quality standards, WET testing may be removed, or if more information is required, WET testing may be retained at a reduced frequency. WET test applicability for NPDES permits shall be fully addressed in the permit factsheet; and

4. Specifications.

A. A dilution series shall be established in the permit for WET test. The dilution series shall be a set of proportional effluent dilutions based on an Allowable Effluent Concentration (AEC).

B. All WET tests shall be performed with *Pimephales promelas* (a fathead minnow) and *Ceriodaphnia dubia* (a water flea), except facilities which discharge to receiving streams designated as cold-water fisheries. Facilities which discharge to receiving streams designated as cold-water fisheries may be required to perform WET tests using *Oncorhynchus mykiss* (rainbow trout) instead of the fathead minnow. Other test species for which test methods are provided in 40 CFR 136.3 may be approved by the department on a case-by-case basis provided the species are appropriately sensitive and representative. Alternative species (not included in 40 CFR 136.3) shall be approved in accordance with the procedures in 40 CFR 136.4. Application for alternate test procedures, promulgated as of *[July 1, 2011] August 28, 2017*, is 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.

C. A Toxic Unit (TU) water quality based limit shall be established in the permit for WET test where the department concludes that a discharge has the reasonable potential to cause or contribute to an excursion from the narrative water quality criteria as established in 10 CSR 20-7.031(4)(D). The TU limit shall be determined in accordance with 40 CFR 122.44(d)(1)(v) and utilizing the methods established in Technical Support Document For Water Quality-based Toxics Control (March 1991, EPA, EPA/505/2-90-001) and documented in the factsheet. Exceedance of a TU limit shall be a WET test failure.

D. Upon completion of a WET test the lab report and department form as referenced in the permit shall be submitted by the permittee to the department within the timeframe established by the permit.

AUTHORITY: section 644.026, RSMo [Supp. 2013] 2016. Original rule filed June 6, 1974, effective June 16, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed June 15, 2018.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions \$1,204,632 in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities three hundred thirteen thousand ninety-two dollars (\$313,092) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Department of Natural Resources, Water Protection Program, Jane Davis, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received by the end of the public comment period, which is 5 pm August 23, 2018. A public hearing is scheduled August 15, 2018 at the Department of Natural Resources, 1730 East Elm Street, Jefferson City, MO 65101.