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Part II

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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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	*Code of State Regulations*	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*.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 2—Commission Procedures

PROPOSED AMENDMENT

10 CSR 25-2.010 Voting Procedures. The commission is amending the rule purpose and sections (2) and (5).

PURPOSE: The commission proposes to amend this rule as part of the department's process of reviewing rules for unnecessary requirements and restrictive words. The commission proposes to amend the purpose statement of the rule to eliminate unnecessary restrictive words.

*PURPOSE: The purpose of this rule is to define the procedures [that must] **to** be followed by commission members when considering hazardous waste management variances, appeals, or orders and related issues.*

(2) The member *[shall be]* **is** excluded from voting on the matter at issue unless s/he fully advises the commission of the interest and receives a determination from the commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the state expects from him/her. Fully advises means explains in detail in a signed, written statement available for public inspection. Official relationship includes, but is not limited to, corporate officer, employee, retiree, or similar affiliation.

(5) If a quorum of commissioners is not present at the time of a public hearing published for rulemaking and it is necessary to delay the public hearing due to the lack of a quorum, the department *[shall—]* **will issue a news release announcing the new time, date and location of the public hearing and include in that news release the new submittal date for written public comments.**

[(A) Issue a news release announcing the new time, date and location of the public hearing; and

(B) Include in that news release the new submittal date for written public comments.]

*AUTHORITY: sections 260.365, **260.370,** 260.400, and 260.437, RSMo [1986 and 260.370 RSMo Supp. 1989] **2016**. Original rule filed Sept. 7, 1978, effective Feb. 16, 1979. Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31, 1990. Amended: Filed June 12, 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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 2—Commission Procedures

PROPOSED RESCISSION

10 CSR 25-2.020 Hazardous Waste Management Commission Appeals and Requests for Hearings. This rule described the process for appealing department decisions to the Administrative Hearing Commission.

PURPOSE: This rule is being rescinded because the rule restates information already found in the statute and is therefore not necessary.

AUTHORITY: sections 260.370, 621.250 and 640.013, RSMo Supp. 2006. Original rule filed March 15, 2007, effective Dec. 30. 2007. Rescinded: Filed June 12, 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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 3—Hazardous Waste Management System: General

PROPOSED AMENDMENT

10 CSR 25-3.260 Definitions, Modifications to Incorporations and Confidential Business Information. The commission proposes to amend sections (1), (2), and (3) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our

natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR part 260, July 1, 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, and the changes made at 78 FR 0, July 31, 2013, are incorporated by reference, except for the changes made at 70 FR 53453, September 8, 2005, *[and 73 FR 64667 to 73 FR 64788, October 30, 2008,]* subject to the following additions, modifications, substitutions, or deletions. This rule does not incorporate any subsequent amendments or additions.

(A) Except where otherwise noted in sections (2) and (3) of this rule or elsewhere in 10 CSR 25, any federal agency, administrator, regulation, or statute that is referenced in 40 CFR parts 260–270, 273, and 279, and incorporated by reference in 10 CSR 25, shall be deleted and in its place add the comparable state department, director, rule, or statute. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

1. "Director" *[shall be]* **is** substituted for "Administrator" or "Regional Administrator" except where those terms are defined in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25.

2. "Missouri Department of Natural Resources" *[shall be]* **is** substituted for "EPA," "U.S. EPA," or "U.S. Environmental Protection Agency" except where those terms appear in definitions in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25.

3. "Section 260.395.15, RSMo," *[shall be]* **is** substituted for "Section 3005(e) of RCRA."

4. "Sections 260.375(9), 260.380.1(9), 260.385(7), and 260.390(7), RSMo," *[shall be]* **is** substituted for "Section 3007 of RCRA."

5. "Sections 260.410 and 260.425, RSMo," *[shall be]* **is** substituted for "Section 3008 of RCRA."

6. "10 CSR 25-3.260" *[shall be]* **is** substituted for any reference to 40 CFR part 260.

7. "10 CSR 25-4.261" *[shall be]* **is** substituted for any reference to 40 CFR part 261.

8. "10 CSR 25-5.262" *[shall be]* **is** substituted for any reference to 40 CFR part 262.

9. "10 CSR 25-6.263" *[shall be]* **is** substituted for any reference to 40 CFR part 263.

10. "10 CSR 25-7.264" *[shall be]* **is** substituted for any reference to 40 CFR part 264.

11. "10 CSR 25-7.265" *[shall be]* **is** substituted for any reference to 40 CFR part 265.

12. "10 CSR 25-7.266 *[shall be]* **is** substituted for any reference to 40 CFR part 266.

13. "10 CSR 25-7.268" *[shall be]* **is** substituted for any reference to 40 CFR part 268.

14. "10 CSR 25-7.270" *[shall be]* **is** substituted for any reference to 40 CFR part 270.

15. "10 CSR 25-8.124" *[shall be]* **is** substituted for any reference to 40 CFR part 124.

16. "10 CSR 25-11.279 *[shall be]* **is** substituted for any reference to 40 CFR part 279.

17. "10 CSR 25-16.273" *[shall be]* **is** substituted for any reference to 40 CFR part 273.

18. "Sections 260.350–260.434, RSMo *[shall be]* **is** substituted for "Subtitle C of RCRA Act," or "RCRA," except where those terms are defined in 40 CFR 260.10, incorporated in this rule.

19. "Section 260.380.1(1), RSMo *[shall be]* **is** substituted for "Section 3010 of RCRA."

20. "Section 260.420, RSMo" *[shall be]* **is** substituted for "Section 7003 of RCRA."

21. "Waste within the meaning of section 260.360(21), RSMo," *[shall be]* **is** substituted for "solid waste within the meaning of section 1004(27) of RCRA." Residual materials specified as wastes under section 260.360(21), RSMo, *[shall]* **means** any spent materials, sludges, by-products, commercial chemical products, or scrap metal that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

22. "Section 260.360(9), RSMo," *[shall be]* **is** substituted for "Section 1004(5) of RCRA."

23. "Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, 10 CSR 25-3.260(1)(B), and 10 CSR 25-7.270(2)(B)" *[shall be]* **are** substituted for any reference to the Federal Freedom of Information Act (5 U.S.C. 552(a) and (b)), 40 CFR part 2, or Section 3007(b) of RCRA.

24. All quantities of solid waste which are defined as hazardous waste pursuant to 10 CSR 25-4 are hazardous waste and are regulated under sections 260.350–260.434, RSMo, and 10 CSR 25. A person shall manage all hazardous waste which is not subject to requirements in 10 CSR 25 in accordance with subsection 260.380.*[2]***3**, RSMo. When a person accumulates one hundred kilograms (100 kg) of nonacute hazardous waste or one kilogram (1 kg) of acutely hazardous waste or the aggregate of one hundred kilograms (100 kg) of acute and nonacute hazardous waste, whichever first occurs, that person is subject to the provisions in 10 CSR 25. This provision is in addition to the calendar-month generation provisions in 40 CFR 261.5 which are incorporated by reference and modified in 10 CSR 25-4.261(2)(A).

25. The term variance in 10 CSR 25 means an action of the commission pursuant to section 260.405, RSMo. In any case where a federal rule that is incorporated by reference in 10 CSR 25 uses the term variance but the case-by-case decision or action of the department or commission does not meet the description of a variance pursuant to section 260.405, RSMo, the decision or action *[shall]* **will** be considered an exception or exemption based on the conditions set forth in the federal regulation incorporated by reference or the omission from regulation.

26. The rules of grammatical construction in 40 CFR 260.3 incorporated by reference in this rule *[shall]* also apply to the incorporated text of 40 CFR parts 266 and 270 and to 10 CSR 25.

(2) This section sets forth specific modifications to the regulations incorporated in section (1) of this rule. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, changes to 40 CFR part 260 subpart A will be located in subsection (2)(A) of this rule.)

(A) The following are changes to 40 CFR part 260 subpart A incorporated in this rule:

1. Confidential business information and availability of information. 40 CFR 260.2 is not incorporated in this rule. In lieu of those provisions, the following *[shall apply]* **applies** to confidential business information and the availability of information:

A. Any information provided to the department under 10 CSR 25 will be made available to the extent and in the manner authorized by Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, subsection (1)(B) and 10 CSR 25-7.270(2)(B)2. as applicable; **and**

B. Any person who submits information to the department in accordance with 10 CSR 25 may assert a claim of business confidentiality covering a part or all of that information by including a letter with the information which requests protection of specific information from disclosure. Information covered by this claim will be disclosed by the department to the extent and by means of the procedures set forth in Chapter 610, RSMo. However, if no claim accompanies the information when it is received by the department, the information may be made available to the public without further notice to the person submitting it. The department will respond to requests for protection of business information within twenty (20) business days*[; and]***.**

[C. The department will respond to requests for information within three (3) business days except as provided in

Chapter 610, RSMo, and except as allowed for reasonable cause in accordance with Chapter 610, RSMo. When the period for document production must exceed three (3) business days for reasonable cause, the department will provide the document within no more than twenty (20) business days.]

(3) Missouri Specific Definitions. Definitions of terms used in 10 CSR 25. This section sets forth definitions which modify or add to those definitions in 40 CFR parts 60, 260–270, 273, and 279 and 49 CFR parts 40, 171–180, 383, 387, and 390–397.

(I) Definitions beginning with the letter I.

1. Identification number means the unique code assigned to each hazardous waste, each hazardous waste generator, transporter, **or** facility*[, or resource recovery]* facility pursuant to these rules.

2. International Registration Plan, referred to as IRP, is a system of reporting and apportioning fees to states and other jurisdictions based on the percentage of mileage accumulated while conducting business in those states or jurisdictions.

(R) Definitions beginning with the letter R.

1. RCRA means the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901–6991.

2. Registry means the Missouri Registry of Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites.

3. Remedial action means any action at a hazardous waste site to protect the public health and environment. These actions may include, but are not limited to: storage; confinement; perimeter protection using dikes, trenches, or ditches; clay cover; neutralization; cleanup of hazardous waste, hazardous substances, or contaminated materials; recycling or reuse; diversion; destruction; segregation of reactive materials; repair or replacement of leaking containers; collection of leachate and runoff; on-site treatment or incineration; provision of alternative water supplies; any monitoring reasonably *[required]* **needed** to assure that these actions protect the public health and environment; or any combination of these actions.

4. Remedial action plan means the specific procedures to be followed in implementation of any remedial action and all necessary, related procedures including, but not limited to, safety, analysis, sampling, handling, packaging, storing, removing, transporting, labeling, registering, and site security. A remedial action plan has a defined endpoint, agreed to in advance, which will complete the plan. Additional remedial actions may be necessary after completion of a remedial action plan dependent upon results of sample analysis or development of new information.

[5. Resource recovery means the reclamation of energy or materials from waste, its reuse, or its transformation into new products which are not wastes.]

*[6.]***5.** Responsible party means any person(s) liable for costs of removal actions or remedial action or other response costs or damages pursuant to Section 107 of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9607–9657 as amended by P.L. 99-499 Superfund Amendments, and Reauthorization Act of 1986, or any current owners or other person willing to assume responsibility.

(W) Definitions beginning with the letter W.

1. Waste means any material for which no use or sale is intended and which will be discarded or any material which has been or is being discarded. Waste *[shall]* also **means** certain residual materials which may be sold for purposes of energy or materials reclamation, reuse, or transformation into new products which are not wastes.

*AUTHORITY: sections 260.370 and 260.395, RSMo [Supp. 2013] **2016**. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 4—Methods for Identifying Hazardous Waste

PROPOSED AMENDMENT

10 CSR 25-4.261 Methods for Identifying Hazardous Waste. The commission proposes to amend sections (1) and (2) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR part 261, July 1, 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, and the changes made at 78 FR *[0]* **46447**, July 31, 2013, **80 FR 1693, January 13, 2015, and 83 FR 24664, May 30, 2018,** are incorporated by reference, except for the changes made at 55 FR 50450, December 6, 1990, 56 FR 27332, June 13, 1991, 60 FR 7366, February 7, 1995, 63 FR 33823, June 19, 1998, 70 FR 53453, September 8, 2005, *[73 FR 64667 to 73 FR 64788, October 30, 2008,]* and 73 FR 77954, December 19, 2008. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall apply]* **applies** in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

(2) This section sets forth specific modifications of the regulations incorporated in section (1) of this rule. A person *[required]* **subject** to identify**ing** a hazardous waste shall comply with this section as it modifies 40 CFR part 261 as incorporated in this rule. (Comment: This section has been organized in order that all Missouri additions, changes, or deletions to any subpart of the federal regulation are noted within the corresponding subsection of this section. For example,

changes to 40 CFR part 261 subpart A will be located in subsection (2)(A) of this rule.)

(A) General. The following are changes to 40 CFR part 261 subpart A incorporated in this rule:

1. *[In Table 1 of 40 CFR 261.2, add an asterisk in column 3, row 6, Reclamation of Commercial Chemical Products listed in 40 CFR 261.33 and add the following additional footnotes: "Note 2. Commercial chemical products listed in 40 CFR 261.33 are not solid wastes when the original manufacturer uses, reuses, or legitimately recycles the material in his/her manufacturing process"; "Note 3. Gasoline and diesel fuels are not solid wastes if they are legitimately used as fuels;"]* ***(Reserved)***

2. *(Reserved)*

3. *(Reserved)*

4. *(Reserved)*

5. (*Reserved)*

6. *(Reserved)*

7. 40 CFR 261.4(a)(16) is not incorporated in this rule (Note: The paragraph at 40 CFR 261.4(a)(16) added by 63 FR 33823, June 19, 1998, is the paragraph not incorporated by 10 CSR 25-4.261(2)(A)9.);

8. *[40 CFR 261.4(a)(20) and (21) are not incorporated in this rule;]* ***(Reserved)***

9. A generator shall submit the information *[required]* in 40 CFR 261.4(e)(2)(v)(C) as incorporated in this rule to the department along with the Generator's Hazardous Waste Summary Report *[required]* in 10 CSR 25-5.262(2)(D)1.;

10. The changes to 40 CFR 261.5, special requirements for hazardous waste generated by conditionally exempt small quantity generators, incorporated in this rule are as follows:

A. The modification set forth in 10 CSR 25-3.260(1)(A)24. applies in this rule in addition to other modifications set forth;

B. 40 CFR 261.5(g)(2) is not incorporated in this rule;

11. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 261.6(a)(3)(i), as incorporated in this rule. The state may not assume authority from the Environmental Protection Agency (EPA) to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies;

12. *(Reserved)*

13. *(Reserved)*

14. *(Reserved)*

15. *[The resource recovery of hazardous waste is regulated by 10 CSR 25-9.020. An owner or operator of a facility that uses, reuses, or recycles hazardous waste shall be certified under 10 CSR 25-9 or permitted under 10 CSR 25-7, unless otherwise excluded. Therefore, the parenthetic text in 40 CFR 261.6(c)(1) is not incorporated in this rule;]* and ***(Reserved)***

16. In accordance with section 260.432.5(2), RSMo, used cathode ray tubes (CRTs) may not be placed in a sanitary landfill, except as permitted by section 260.380.3, RSMo.

AUTHORITY: section 260.370, RSMo [Supp. 2013] ***2016****. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed June 14, 2018.*

PUBLIC COST: This proposed amendment will cost public entities two hundred three thousand six hundred ninety-eight dollars ($203,698) annually in the aggregate. These costs are detailed in the attached public entity fiscal note for this rule.

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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 25-4.261, Identification of Hazardous Waste
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	Loss of $203,698 annually in hazardous waste tonnage fees for recycled hazardous secondary material no longer defined as hazardous waste
Total annual loss to Department of Natural Resources	$203,698

III. Worksheet

Loss of hazardous waste fees on excluded material

In-State Waste Fee reduced by $152,948
Registration Renewal Fee reduced by $50,750.00

Total loss of hazardous waste fees = $152,948 + $50,750 = $203,698

IV. Assumptions

1. Approximately 20 facilities operate under resource recovery certificates. The Department assumes that all 20 facilities will choose to operate under one of the exclusions available to hazardous waste generators in the federal Definition of Solid Waste rule proposed for adoption. The decreased revenue associated with these facilities is addressed in the fiscal note for the proposed rescission of 10 CSR 25-9.020 and is not included here

2. Hazardous waste fees based on the amount of hazardous waste generated would no longer apply to hazardous secondary materials recycled under one of the exclusions proposed for adoption as this material is not defined as hazardous waste

3. Loss of hazardous waste fees is based on the amount of fees charged for this material in FY 17 that would no longer be collected if the recycled material is no longer defined as hazardous waste

4. Although the number of generators claiming the exclusion, the amount of material recycled under one of the exclusions, and the associated fees will vary from year to year, the Department assumes a constant amount for purposes of this fiscal note

5. The calculations were made on the assumption that every generator that has a waste stream eligible to be excluded does claim the exclusion.

6. Waste streams included in the calculation:
   a. Any waste stream with a management method code of H010, H020 or H039;
   b. Any waste stream with the word "paint" in the description
   c. Any waste stream containing a word on the high priority solvents listed that is part of the definition of solid waste rule.

7. Generators will direct that waste streams eligible for the exclusion will be handled in a manner that will allow them to claim the exclusion rather than continuing to have the waste handled in the manner that would not allow the exclusion to be claimed.

8. The calculations do not capture every waste stream that may be eligible to be excluded. Due to space limitations in the database, there may be many waste streams where a word that would put the waste stream in the excluded universe was not in the description entered into the database. The Department is not able to estimate to what extent that applies. The loss should be looked at as a minimum loss.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 5—Rules Applicable to Generators of Hazardous Waste

PROPOSED AMENDMENT

10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste. The commission proposes to amend sections (1) and (2) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 49 CFR part 172, October 1, 2013, 40 CFR 302.4 and .5, July 1, 2013, and 40 CFR part 262, July 1, 2013, except subpart H, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall apply]* **applies** in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

(2) A generator located in Missouri, except as conditionally exempted in accordance with 10 CSR 25-4.261, shall comply with the requirements of this section in addition to the requirements incorporated in section (1). *[Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control.]* (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section.)

(A) General. The following registration requirements are additional requirements to, or modifications of, the requirements specified in 40 CFR part 262 subpart A:

1. In lieu of 40 CFR 262.12(a) and (c), a generator located in Missouri **shall** comply with the following requirements:

A. A person generating in one (1) month or accumulating at any one (1) time the quantities of hazardous waste specified in 10 CSR 25-4.261 and a transporter who is *[required]* **subject** to *[register]* **registration** as a generator under 10 CSR 25-6.263 shall register and is subject to applicable rules under 10 CSR 25-3.260–10 CSR 25-9.020 and 10 CSR 25-12.010; and

B. Conditionally exempt generators may choose to register and obtain Environmental Protection Agency (EPA) and Missouri identification numbers, but in doing so will be subject to any initial registration fee and annual renewal fee outlined in this chapter;

2. An owner or operator of a treatment, storage, **and** disposal*[, or resource recovery]* facility who ships hazardous waste from the facility shall comply with this rule;

3. The following constitutes the procedure for registering:

A. A person *[who is required to register]* **subject to registration** shall file a completed registration form furnished by the department. The department *[shall]* require**s** an original ink signature on all registration forms before processing. In the event the department develops the ability to accept electronic submission of the registration form, the signature requirement will be consistent with the legally-accepted standards in Missouri for an electronic signature on documents. All generators located in Missouri **shall** use only the Missouri version of the registration form;

B. A person *[required to register]* **subject to registration** shall also complete and file an updated generator registration form if the information filed with the department changes;

C. The department may request additional information, including information concerning the nature and hazards associated with a particular waste or any information or reports concerning the quantities and disposition of any hazardous wastes as necessary to authorize storage, treatment, or disposal and to ensure proper hazardous waste management;

D. A person *[who is required to register]* **subject to generator registration**, and those conditionally-exempt generators who choose to register, shall pay a one hundred dollar ($100) initial or reactivation registration fee at the time their registration form is filed with the department. If a generator site has an inactive registration, and a generator *[required to register]* **subject to registration** reactivates that registration, the generator shall file a registration form and pay the one hundred dollar ($100) registration reactivation fee. The department *[shall]* **will** not process any form for an initial registration or reactivation of a registration if the one hundred dollar ($100) fee is not included. Generators *[required to register]* **subject to registration** shall thereafter pay an annual renewal fee of one hundred dollars ($100) in order to maintain their registration in good standing; and

E. *[Any]* **The department will immediately revoke the registration of any** person who pays the registration fee with what is found to be an insufficient check *[shall have their registration immediately revoked]*;

4. The following constitutes the procedure for registration renewal:

A. The calendar year *[shall]* constitute**s** the annual registration period;

B. Annual registration renewal billings will be sent by December 1 of each year to all generators holding an active registration;

C. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but *[shall]* **does** not pay the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, *[they shall pay]* **the generator pays** the annual renewal fee;

D. **The department will administratively inactivate the registration of** *[A]***a**ny generator *[required to register]* **subject to registration** who fails to pay the annual renewal fee by the due date specified on the billing *[shall]***, and the generator will** be *[administratively inactivated and]* subject to enforcement action for failure to properly maintain their registration;

E. Generators administratively inactivated for failure to pay the renewal fee in a timely manner, who later in the same registration year pay the annual renewal fee, shall pay the fifteen percent (15%) late fee *[required by]* **in** section 260.380.4, RSMo, in addition to the one hundred dollar ($100) annual renewal fee for each applicable registration year and shall file an updated generator registration form with the department before their registration is reactivated by the department;

F. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay the fifteen percent (15%) late fee *[required by]* **in** section 260.380.4, RSMo, in addition to the one hundred dollar ($100) annual renewal fee and file an updated generator registration form with the department before their registration is reactivated by the department; and

G. **The department will immediately revoke the registration of** *[A]***a**ny person who pays the annual renewal fee with what is found to be an insufficient check *[shall have their registration immediately revoked]*; and

5. The department may administratively inactivate the registration of generators that fail to pay any applicable hazardous waste fees and taxes in a timely manner after appropriate notice to do so.

(B) ***(Reserved)*** *[The Manifest. Additional manifest and reporting requirements are set forth in subsections (2)(D) and (E). This subsection is applicable to all Missouri generators and to all other generators who deposit hazardous waste in Missouri. (Note: This section is not applicable to an out-of-state or international generator who is shipping hazardous waste through, in less than ten (10) days, but not depositing hazardous waste in Missouri. This subsection does not prevent a transporter from voluntarily carrying information in addition to the manifest. Any reference to the United States Environmental Protection Agency (EPA) form 8700-22 means the form as revised by EPA and approved by the federal Office of Management and Budget (OMB)).]*

[1. Generators must record either the total weight in kilograms or pounds or the specific gravity for wastes listed or measured in gallons, liters, or cubic yards.

2. Manifest reporting. This paragraph sets forth additional requirements for manifest reporting. The generator shall contract with the designated facility to return the completed manifest to the generator within thirty-five (35) days after the hazardous waste was accepted by the initial transporter.]

(C) Pretransport, Containerization, and Labeling Requirements.

[1. In addition to labeling containers used to accumulate hazardous waste in accordance with the requirements in 40 CFR 262.34(a)(2), (a)(3), and (d)(4), generators must also comply with either subparagraphs A. or B. below.

A. All containers used to accumulate hazardous waste must be labeled in accordance with applicable United States Department of Transportation labeling requirements in 49 CFR part 172 subpart E during the entire time the waste is accumulated on-site. If a generator determines that labeling a container with a capacity of less than one (1) gallon is not feasible, the generator shall affix the appropriate label(s) to the locker, rack, or other device used to hold or accumulate any such container; or

B. Clearly label each container with words that correctly identify the hazards of the contents of the container during the entire on-site storage period. Such words shall include one (1) or more of the following as defined in 40 CFR part 261 subparts C and D: Ignitable, Toxic, Corrosive, or Reactive. The label shall be white with black lettering or black with white lettering that is a minimum of one (1) inch in height. If a generator determines that labeling a container with a capacity of less than one (1) gallon is not feasible, the generator shall affix the appropriate label(s) to the locker, rack, or other device used to hold or accumulate any such container. Note that pursuant to 49 CFR 172.401, "No person may offer for transportation and no carrier may transport a package bearing any marking or label which by its color, design, or shape could be confused with or conflict with a label prescribed by this part."

2. In addition to labeling requirements for tanks used to accumulate hazardous waste in accordance with the requirements of 40 CFR 262.34(a)(3) and (d)(4), generators must also comply with the 2012 Edition of the National Fire Protection Association Standard NFPA 704: Standard System for the Identification of the Hazards of Materials for Emergency Response to identify the hazards of the tank contents. The 2012 edition of NFPA 704 is hereby incorporated by reference without any subsequent amendments or additions, and is published by the National Fire Protection Association, 1 Battery March Park, Quincy, MA, 02169-7471.

3. Satellite accumulation. As an alternative to compliance with the accumulation limits in 40 CFR 262.34(c)(1), generators who instead wish to store up to fifty-five (55) gallons of each non-acute hazardous waste stream, or up to one (1) quart of each acutely hazardous waste stream in a satellite accumulation area may do so if they comply with the other applicable requirements of 40 CFR 262.34(c) and the following additional requirements:

A. The generator must notify the department that it has chosen to comply with the additional requirements in this section and must also re-notify at any time it changes this decision. Such notification must be made by submitting an updated Notification of Regulated Waste Activity Form. All satellite accumulation areas at the generator's location must operate under the same requirements;

B. The generator may not use more than one (1) container per wastestream;

C. Each container must be marked with its beginning date of satellite storage;

D. A container of hazardous waste stored in a satellite accumulation area pursuant to this paragraph 3. shall be removed from the satellite accumulation area within three (3) calendar days if any of the following occurs:

(I) One (1) year has passed since the accumulation start date;

(II) The container is full; or

(III) The container has reached its volume limit.

E. A container of hazardous waste removed from the satellite accumulation area pursuant to subparagraph D. above must be taken to the generator storage area, shipped off-site for proper hazardous waste management, or managed in accordance with an approved hazardous waste permit or certification at the site.

F. In lieu of 40 CFR 262.34(c)(2), during the three (3) day period referenced in subparagraph D. above, the generator may start a new satellite container for that wastestream if in compliance with all other requirements of paragraph 3. and 40 CFR 262.34(c)(1) as modified by this paragraph 3.]

*[4.]***1.** 40 CFR 262.34(a)(1)(iii) is not incorporated in this rule.

[5. Generators who accumulate more than six thousand (6000) kilograms of ignitable or reactive hazardous waste may elect to comply with 10 CSR 25-7.264(2)(I) in lieu of 40 CFR 265.176.]

(D) Record Keeping and Reporting. In addition to requirements in 40 CFR 262.40, generators shall retain registration information *[required]* in subsection (2)(A) of this rule and the Generator's Hazardous Waste Summary Report *[required]* in paragraph (2)(D)1. of this rule for no fewer than three (3) years.

1. This paragraph establishes requirements for quarterly Generator's Hazardous Waste Summary Reports.

A. All generators *[who are required to register]* **subject to registration** in accordance with subsection (2)(A) of this rule shall complete a Generator's Hazardous Waste Summary Report*[. This report shall be]* **that is** completed on a form provided by the department or on a reproduction of the form provided by the department or in the same format as the form provided by the department after review and approval by the department.

B. **A** *[P]***p**erson*[s]* **who** do**es** not ship any hazardous wastes or who make**s** only one (1) shipment of hazardous waste during the entire reporting year, July 1 through June 30, or *[are]* **is** defined as a small quantity generator for the entire reporting year, or *[are]* **is** defined as a large quantity generator and filing their report electronically in a manner prescribed by the department, may file an annual report by August 14 following the reporting year period. However, **a** person*[s]* who *[are]* **is** defined as a large quantity generator and *[have]* **has** more than one (1) shipment of hazardous waste during the reporting years, and do**es** not file their report using the electronic method prescribed by the department, shall file quarterly. *[Large quantity generators may submit an annual report electronically beginning with the reporting period of July 1, 2015-June 30, 2016, or sooner if the system for electronic reporting is in place prior to that reporting period.]*

C. A generator who is registered with the department shall report the quantity, type, and status of all hazardous waste(s) shipped off-site during the reporting period on the Generator's Hazardous Waste Summary Report regardless of the destination of the shipment(s).

D. The Generator's Hazardous Waste Summary Report shall be signed and certified by an authorized representative as defined in 40 CFR 260.10 incorporated by reference in 10 CSR 25-3. The certification statement shall read as follows: "CERTIFICATION: I certify under penalty of law that I personally examined and am familiar with the information submitted on this form and all attached documents and, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted 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." The handwritten signature of the authorized representatives shall follow this certification.

E. The generator shall submit the completed Generator's Hazardous Waste Summary Report within forty-five (45) days after the end of each reporting period. The reporting periods and submittal dates are as follows: January 1 through March 31, with a submittal date of May 14 of the same year; April 1 through June 30, with a submittal date of August 14 of the same year; July 1 through September 30, with a submittal date of November 14 of the same year; and October 1 through December 31, with a submittal date of February 14 of the following year.

F. A generator shall submit the information *[required]* in 40 CFR 261.4(e)(2)(v)(C) incorporated by reference in 10 CSR 25-4.261(1) to the department along with the completed Generator's Hazardous Waste Summary Report.

G. *[Generators failing]* **The department will administratively inactivate the registration of any generator that fails** to file the *[reports required by this rule shall have their registration administratively inactivated]* **Generator's Hazardous Waste Summary Report**. *[Their registration shall]* **The generator's registration will** be reactivated after all *[required]* reporting is filed, applicable fees are paid, and an updated generator registration form is submitted to the department.

2. Reporting requirements for small quantity generators. 40 CFR 262.44 is not incorporated in this rule.

(E) Exports of Hazardous Waste. This subsection modifies the incorporation of 40 CFR part 262 subpart E. The state cannot assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit acknowledgements of consent to the exporter. In addition, the annual reports and exception reports *[required]* in 40 CFR 262.55 and 262.56, incorporated in this rule, shall be filed with the EPA administrator *[and copies shall be]* **with copies** provided to the department. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 262.51, 262.52, 262.53, 262.54, 262.55, 262.56, and 262.57, as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies (for example, the federal Department of Transportation and the Bureau of the Census of the Department of Commerce).

(F) Imports of Hazardous Waste. The United States importer shall also comply with the following requirements:

1. In addition to registration requirements specified in this section, the United States importer shall register as generator in accordance with this section and *[shall be responsible]* **has responsibility** for compliance with all applicable requirements specified in this section. The United States importer shall register with the department as a generator, and four (4) weeks in advance of the date the waste is expected to enter the United States, *[shall]* specifically identify hazardous waste(s) intended to be imported by their EPA waste number(s) found in 40 CFR 261 and this section; and

2. The United States importer shall keep and maintain the following information on each shipment which is imported and make available upon departmental request:

A. If the waste is a mixed bulk shipment of multi-generator wastes, the individual original foreign generator's names and addresses and the wastes' technical chemical names from each source;

B. Quantity of waste from each imported source; and

C. List of EPA waste numbers found in 40 CFR 261 and this section which are applicable to the waste(s) from each source.

(J) Generator Fee and Taxes. A generator who is *[required to register]* **subject to registration** under this rule, unless otherwise exempted, shall pay fees and taxes in accordance with 10 CSR 25-12.010. *[Generators failing]* **The department will administratively inactivate the registration of any generator who fails** to pay the fees, taxes, or applicable late fees outlined in 10 CSR 25-12.010 by the due date *[shall have their registration administratively inactivated]*. *[Their]* **The department will reactivate the generator's** registration *[shall be reactivated]* after all applicable fees, taxes, and late fees are paid and an updated generator registration form is submitted to the department.

*AUTHORITY: sections 260.370[, RSMo Supp. 2013,] and [section] 260.380, RSMo [Supp. 2014] **2016**. This rule was previously filed as 10 CSR 25-5.010. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 6—Rules Applicable to Transporters of Hazardous Waste

PROPOSED AMENDMENT

10 CSR 25-6.263 Standards for Transporters of Hazardous Waste. The commission proposes to amend sections (1) and (2) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and

hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR part 263, July 1, 2013; 49 CFR parts 171–180, November 1, 1990, and December 1, 1997; and 49 CFR parts 40, 383, 387, 390–397, October 1, 1990, and October 1, 1997, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference, except for 49 CFR 390.3(f)(2), which is not incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall apply]* **applies** in this rule in addition to any other modifications set forth in section (2) of this rule except that the modifications do not apply to the 49 CFR parts incorporated in this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

(2) A hazardous waste transporter shall comply with the requirements of this section in addition to those set forth in section (1). Any reference to a 40 CFR cite in this section *[shall]* mean**s** as that provision is incorporated in 10 CSR 25. *[Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control.]* (Comment: This section has been organized in order within the corresponding subsection of this section. For example, the additional requirements being added to 40 CFR part 263 subpart A are found in subsection (2)(A).)

(A) In addition to the requirements in 40 CFR part 263 subpart A, the following *[shall apply]* **applies**:

1. In 40 CFR 263.10(a) and (c)(1), incorporated in this rule, substitute "the state of Missouri" for "United States";

2. In the last paragraph of the note following 40 CFR 263.10(a), change "49 CFR parts 171 through 179" to "49 CFR parts 171 through 180 and parts 383, 387, and 390–397" and add the following to the note: "The parts of 49 CFR are incorporated to the extent that these regulations do not conflict with the laws and regulations of the state of Missouri, or, in the event the regulations conflict, the more stringent *[shall]* **regulations** control. The equipment used in the transportation of hazardous waste shall meet the standards of the Missouri Department of *[Economic Development's]* **Transportation's** Division of Motor Carrier and Railroad Safety, the United States Department of Transportation, *[or any combination of them,]* **and** the Federal Railroad Administration**, or any combination of them**, as applicable for the types of hazardous materials for which it will be used. The equipment to be used in the transportation of hazardous waste shall be compatible with that waste and *[shall be]* adequate to protect the health of humans and prevent damage to the environment";

3. License requirements for power unit transporters of hazardous waste, used oil, or infectious waste. *[Transporters required by]* **In accordance with** 10 CSR 25-6.263, 10 CSR 25-11.279(2)(E)1., or 10 CSR 80-7.010(4), to be licensed by the department **hazardous waste transporters** shall comply with the following requirements:

A. Power unit transporters shall submit to the department an application for a license on a form furnished by the department*[. The form shall be]* **and** completed with the following information:

(I) The applicant's name, address, location of the principal office, or place of business, and the legal owner of the applicant company;

(II) A description of the service proposed to be rendered;

(III) The applicant's Environmental Protection Agency (EPA) identification number;

(IV) The number of power units to be used;

(V) A certification that the applicant's equipment and operating procedures meet the standards of the Missouri Division of Motor Carrier and Railroad Safety, the Federal Department of Transportation (DOT), or the Federal Railroad Administration, or both;

(VI) A description of each power unit to include make, model, year, vehicle identification number (VIN), licensed vehicle weight, and state and number of the license plate*[. Also required is]* **and** a description of the trailers (cargo box, van, tank) and maximum trailer capacities used by the transporter;

(VII) A disclosure statement for the applicant, principal corporate officers, and the holders of more than twenty percent (20%) of the applicant company. If any of these persons were involved in hazardous waste management before their association with the applicant company, the applicant shall submit this information to the department including the names of these persons and the names and locations of the companies with which they were associated; and

(VIII) For applicants who are not residents of Missouri, a written statement designating the director of the department as the authorized agent upon whom legal service may be made for all actions arising in Missouri from any operation of motor vehicles under authority of the department.

B. In addition to the completed application, an applicant shall submit each of the following:

(I) A fee as specified in 10 CSR 25-12.010;

(II) The insurance document(s) as specified in paragraph (2)(A)4. of this rule; and

(III) Statements, documents, or both, of the following, where applicable:

(a) If the applicant is a partnership, include an affidavit to this effect signed by the proprietor or include a copy of the partnership agreement. If no written partnership agreement has been entered into, include a statement summarizing the agreement between the parties which is signed by each of the partners and certified by a notary public;

(b) If the applicant is a Missouri corporation or a foreign corporation with authority to conduct business in Missouri or is a foreign corporation with facilities or employees in Missouri, a Certificate of Corporate Good Standing from the Missouri secretary of state *[shall be included.]* **and** *[I]***i**f the applicant is a nonresident corporation without facilities or employees in Missouri, a Certificate of Good Standing from the state or country of residence *[shall be included]*; and

(c) If the applicant is conducting its business under an assumed or fictitious name, a certified copy of the registration with the Missouri secretary of state of the assumed or fictitious name *[shall be included]*.

C. License renewal.

(I) **At least sixty (60) days prior to the expiration date of his/her current license,** *[A]***a** hazardous waste transporter wishing to renew his/her license shall submit a license renewal application on a form furnished by the department *[and shall submit other applicable information, as specified in this section, to the department at least sixty (60) days prior to the expiration date of his/her current license. A Certificate of Corporate Good Standing must be submitted with the renewal. This certificate must have been issued in the twelve (12) months preceding the license expiration date. Insurance requirements must be satisfied as specified in paragraph (2)(A)4. of this rule except for other than power unit carriers. The renewal application shall be accompanied by a fee as specified in 10 CSR 25-12.]***, including a Certificate of Corporate Good Standing issued within the twelve (12) months preceding the license expiration date, documents that satisfy the insurance requirements in paragraph (2)(A)4. of this rule, except for other than power unit carriers, and a fee as specified in 10 CSR 25-12.**

D. Power unit additions, replacements, and temporary permits. Changes made to the power unit listings as shown on the current

license application or renewal form shall be reported to the department as follows: A power unit can be added by submitting a written description of the power unit to be added and paying a fee in accordance with 10 CSR 25-12.010. A power unit can be replaced for another without any charge by submitting a description of the original power unit and its replacement. A power unit can be issued a temporary permit for a thirty- (30-)*[-]* day period by submitting a written description of the power unit and paying a fee in accordance with 10 CSR 25-12.010.

E. Proof of license. A transporter shall carry proof of license with each power unit transporting hazardous waste within Missouri. A legible copy of this certificate shall be in the possession of the driver of the power unit and *[shall be]* shown **upon demand** to representatives of the department, officers of the Missouri State Highway Patrol, and other law enforcement officials *[upon demand]*;

4. Insurance.

A. Transporters licensed in accordance with this chapter shall at all times have on file with the department a certification of public liability (bodily injury and property damage) insurance which *[shall]* includes the required, uniform endorsements covering each motor vehicle in accordance with 49 CFR part 387 incorporated by reference in this rule. The minimum level of insurance coverage shall not be less than one (1) million dollars combined single limit. (Comment: The federal regulations at 49 CFR 387.9 set forth certain conditions which require five (5) million dollars coverage.)

B. The certificate of insurance shall *[state that the insurer has issued to the motor carrier a policy of insurance which, by endorsement, provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon the motor carrier by the provisions of the law of Missouri. The certificate shall be duly completed and executed by the insurer on Form E—Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance. The endorsements shall be attached to the insurance policy and shall form a part of that policy. The endorsements shall be made on Form F—Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsements. The certificate shall be duly completed and executed by the insurer. The surety bond shall be in the form set forth in Form G—Uniform Motor Carrier Bodily Injury and Property Damage Surety Bond. The bond shall be duly completed and executed by the surety and principal.]—*

(I) State that the insurer has issued to the motor carrier a policy of insurance which, by endorsement, provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon the motor carrier by the provisions of the law of Missouri;

(II) Be duly completed and executed by the insurer on Form E—Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance;

(III) Be duly completed and executed by the insurer with the endorsements made on Form F—Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsements attached to the insurance policy and forming a part of that policy; and

(IV) A surety bond, duly completed and executed by the surety and principal, in the form set forth in Form G—Uniform Motor Carrier Bodily Injury and Property Damage Surety Bond.

C. An insurer under the provisions of this rule shall submit to the department not fewer than thirty (30) days' notice of cancellation of motor carrier bodily injury and property damage liability insurance by filing with the department the form of notice set forth in Form K—Uniform Notice of Cancellation of Motor Carrier Insurance Policies. The notice shall be duly completed and executed by the insurer. A surety under the provisions of this rule shall give the department not fewer than thirty (30) days' notice of the cancellation of motor carrier bodily injury and property damage liability surety bond by filing with the department the form of notice set forth in Form L—Uniform Notice of Cancellation of Motor Carrier Surety Bond. The notice shall be duly completed and executed by the surety or motor carrier.

D. Forms E, F, G, K**,** and L referred to in subparagraphs (2)(A)4.B. and C. of this rule are the standard forms determined by the National Association of Regulatory Utility Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act, 49 U.S.C. section 302(b)(2), 1994.

E. Before any policy of insurance will be accepted by the department, the insurance company issuing the policy or the carrier offering the same, upon request of the department, shall furnish evidence satisfactory to the department that the insurance company issuing the policy is duly authorized to transact business in Missouri and that it is financially able to meet the obligations of the policy offered.

F. All insurance certificates and surety bonds filed with the department shall remain on file with the department and shall not be removed except with the written permission of the director.

G. A new certificate of insurance shall be filed for reinstatement of insurance which has been canceled;

5. Vehicle marking. The transportation vehicle used to ship hazardous waste shall be marked in accordance with 49 CFR 390.21(b) and (c);

6. No hazardous waste shall be accepted for transport unless it has been properly loaded and secured in accordance with 49 CFR 177.834;

7. Incompatible wastes. A waste shall not be added to an unwashed or uncleaned container that previously held an incompatible material;

8. In addition to the requirements in 40 CFR 263.10(c)(1), add the following requirements: A transporter who accepts shipments of hazardous waste from a person not *[required to register]* **subject to registration** as a generator in accordance with 10 CSR 25-5.262, and in so doing accumulates one hundred kilograms (100 kg) or more of hazardous waste, becomes a generator and shall comply with 10 CSR 25-5.262 in addition to the requirements of this rule. (Note: This provision is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.);

9. In addition to the requirements in 40 CFR 263.11, add the following: "In the event that an EPA identification number has not been assigned, the department will assign an EPA identification number." The applicant shall also submit an application for license in accordance with this rule at the time of notification; and

10. In addition to the requirements in 40 CFR 263.12, the following rules apply to transfer facilities (Note: Used oil transfer facilities are regulated under 10 CSR 25-11.279.):

A. A hazardous waste transported intrastate or into the state by motor carrier shall arrive at its destination in ten (10) calendar days or less from the date the initial transporter signs the manifest, or when the waste first enters the state, unless departmental approval is obtained prior to the expiration of the ten- (10-) day period;

B. A hazardous waste destined for out-of-state treatment, storage, or disposal shall leave the state in ten (10) calendar days or less from the date the initial transporter signs the manifest unless departmental approval is obtained prior to the expiration of the ten- (10-) day period;

C. A hazardous waste transported through the state by motor carrier shall pass through the state in ten (10) calendar days or less unless departmental approval is obtained prior to the expiration of the ten- (10-) day period;

[D. A secondary containment system for storage of hazardous waste in containers at a transfer facility shall meet the following requirements:

(I) A containment system shall be designed, maintained, and operated as follows:

(a) The containment system shall include a base

which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed. The base shall be under the container;

(b) The base shall be sloped or the containment system shall be designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(c) The containment system shall have a capacity equal to ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater (Containers that do not contain free liquids need not be considered in this calculation.);

(d) Run-on into the containment system shall be prevented unless the collection system has sufficient excess capacity in addition to that required in part (2)(A)10.D.(I) of this rule to contain any run-on which might enter the system; and

(e) Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection area as necessary to prevent overflow of the collection system; and

(II) The containment system shall be inspected as part of the weekly inspections required by 40 CFR 265.174 incorporated by reference in 10 CSR 25-7.265(1);

E. The following requirements apply to the management of ignitable, reactive, incompatible, or volatile wastes at a transfer facility: A transporter shall take precautions to prevent accidental ignition or reaction of ignitable or reactive wastes. These hazardous wastes shall be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (that is, from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, a transporter shall confine smoking and open flame to specially designated locations. No Smoking signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste;]

D. A secondary containment system for storage of hazardous waste in containers at a transfer facility shall be designed, maintained, and operated as follows:

(I) With a base under the container(s) which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

(II) With the base sloped or the containment system designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(III) With a capacity equal to ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater (Containers that do not contain free liquids need not be considered in this calculation.);

(IV) With run-on into the containment system prevented unless the collection system has sufficient excess capacity in addition to that specified in part (2)(A)10.D.(I) of this rule to contain any run-on which might enter the system; and

(V) With removal of spilled or leaked waste and accumulated precipitation from the sump or collection area as necessary to prevent overflow of the collection system; and

(VI) Including the containment system as part of the weekly inspections specified in 40 CFR 265.174 incorporated by reference in 10 CSR 25-7.265(1);

E. The following requirements apply to the transporter's management of ignitable, reactive, incompatible, or volatile wastes at a transfer facility:

(I) Take precautions to prevent accidental ignition or reaction of ignitable or reactive wastes;

(II) Separate and protect wastes identified in subparagraph E. of this section from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (that is, from heat-producing chemical reactions), and radiant heat;

(III) While ignitable or reactive waste is being handled, confine smoking and open flame to specially designated locations; and

(IV) Conspicuously place No Smoking signs wherever there is a hazard from ignitable or reactive waste;

F. Preparedness and prevention. A transporter shall equip the transfer station as specified in 40 CFR 265.32 incorporated by reference in 10 CSR 25-7.265(1). In addition, a transporter shall also provide safety equipment such as fire blankets, gas masks, and self-contained breathing apparatus **unless the hazards posed by the type of waste managed does not warrant using this additional safety equipment**;

G. Closure. At closure of the storage area, a transporter shall remove and properly dispose of all hazardous waste and hazardous residues. For the purpose of this subparagraph, closure shall occur when the storage of hazardous wastes has not occurred, or is not expected to occur for one (1) year, or when the transporter's license lapses, whichever first occurs;

H. The contents of separate containers of hazardous waste may not be combined at a transfer facility. **Individual lab packed containers may be placed in a larger container if**, *[W]***w**hen containers are overpacked, the transporter *[shall]* affix**es** labels to the overpack container, which are identical to the labels on the original shipping container; and

I. A transfer facility shall not be the same facility as designated in item *[9]* **8** of the manifest.

(B) Compliance with the Manifest System and Record Keeping. This subsection sets forth requirements in addition to or in lieu of the requirements set forth in 40 CFR part 263 subpart B.

1. Manifests.

A. In lieu of the requirements in 40 CFR 263.20(a), the following shall apply:

[(I) In addition to the requirements in 10 CSR 25-5.262, a transporter shall not accept hazardous waste from a generator unless it is accompanied by a manifest signed and dated by the generator which contains federally-required information in accordance with 10 CSR 25-5.262, except that the transporter may accept shipments of hazardous waste without a manifest from persons not required to register as provided in 10 CSR 25-5.262(2)(A) provided that the waste is transported only to a facility which is permitted or certified to accept the waste. The transporter shall maintain records on wastes accepted from those generators which contain information including the type or identity of each waste, the source of each waste, and disposition of each waste. (Note: This paragraph is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.)

(II) Hazardous waste shall be transferred between licensed transporters only; and

(III) For exports, the transporter shall also comply with the following requirements: A transporter may not accept hazardous waste from a primary exporter or other person—1) if s/he knows the shipment does not conform to the EPA Acknowledgement of Consent, and 2) unless, in addition to a manifest signed in accordance with 10 CSR 25-5, the waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment

by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). The shipping paper for exports by water (bulk shipment) shall contain all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent shall accompany the hazardous waste. Rail transporters shall ensure that a shipping paper contains all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent accompanies the hazardous waste at all times. A transporter shall also provide a copy of the manifest to a United States Customs official at the point of departure from the United States.]

(I) In addition to the requirements in 10 CSR 25-5.262, a transporter shall not accept hazardous waste from a generator unless it is accompanied by a completed uniform hazardous waste manifest signed and dated by the generator containing information in accordance with Subpart B of 40 CFR part 262, except that the transporter may accept shipments of hazardous waste without a manifest from persons not subject to registration as provided in 10 CSR 25-5.262(2)(A) provided that the waste is transported only to a facility which is permitted or certified to accept the waste. The transporter shall maintain records on wastes accepted from those generators which contain information including the type or identity of each waste, the source of each waste, and disposition of each waste. (Note: This paragraph is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.);

(II) Hazardous waste shall be transferred between licensed transporters only; and

(III) For exports, the transporter shall also comply with the following:

(a) Accept no hazardous waste from a primary exporter or other person—1) if s/he knows the shipment does not conform to the EPA Acknowledgement of Consent, and 2) unless, in addition to a manifest signed in accordance with 10 CSR 25-5, the waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment));

(b) Use shipping papers for exports by water (bulk shipment) that contain all the information required on the manifest and, for exports, accompany the hazardous waste with an EPA Acknowledgement of Consent;

(c) If a rail transporter, ensure that a shipping paper contains all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent accompanies the hazardous waste at all times;

(d) Provide a copy of the manifest to a United States Customs official at the point of departure from the United States.

B. In addition to requirements in 40 CFR 263.22, the following shall apply: *[Each day that a vehicle is used for the transportation of hazardous waste, the driver of that vehicle, prior to the transportation, shall inspect the vehicle to meet the requirements of 49 CFR 396.11 incorporated by reference in section (1) of this rule. The vehicle inspection shall be documented in writing. At a minimum once annually, transporters shall provide and document hazardous waste/materials training for each driver employee who transports hazardous waste. Records relating to hazardous waste transportation shall be available to representatives of the department for inspection and copying during regular business hours. Current files on driver vehicle inspections, vehicle maintenance, annual employee training, and records of incident reports shall also be maintained for a period of three (3) years by the licensed transporter regardless of whether the vehicle(s) is owned or leased. The period of record retention for these records also extends automatically during the course of any unresolved enforcement action, and the records shall be available to authorized representatives of the department for inspection and copying during regular business hours.]*

(I) Each day that a vehicle is used for the transportation of hazardous waste, the driver of that vehicle, prior to the transportation, shall inspect the vehicle to meet the requirements of 49 CFR 396.11 incorporated by reference in section (1) of this rule;

(II) Document the vehicle inspection in writing;

(III) At a minimum once annually, transporters shall provide and document hazardous waste/materials training for each driver employee who transports hazardous waste;

(IV) Make records relating to hazardous waste transportation available to representatives of the department for inspection and copying during regular business hours; and

(V) Maintain current files on driver vehicle inspections, vehicle maintenance, annual employee training, and records of incident reports for a period of three (3) years. Files shall be maintained by the licensed transporter regardless of whether the vehicle(s) is owned or leased. The period of record retention for these records also extends automatically during the course of any unresolved enforcement action, and the records shall be available to authorized representatives of the department for inspection and copying during regular business hours.

2. (*Reserved*)

(C) Immediate Action. In addition to the requirements in 40 CFR part 263 subpart C, the following shall apply:

1. In addition to requirements in 40 CFR 263.30(c)(1), the transporter shall also notify the department at the earliest practical moment **of a hazardous waste discharge** by calling the department's emergency number, (573) 634-2436 (634-CHEM); and

2. In addition to requirements in 40 CFR 263.30(c)(2), the transporter shall also submit a copy of that report to the department.

(D) Operations of Transporters by Modes Other Than Power Unit.

1. A person who transports hazardous waste by a mode other than power unit shall comply with paragraphs (2)(A)1. and 2., parts (2)(A)3.A.(V), (2)(A)3.B.(I) and (III), subparagraph (2)(A)3.C., paragraphs (2)(A)7., 8., 9., and 10., and subsections (2)(B) and (C) of this rule.

2. Application form. An applicant shall submit a completed, department-furnished form which *[shall]* contains the following information: name, address, type of transport vehicles to be used in hazardous waste transport, and EPA identification number. If an EPA identification number has not been assigned by the EPA, the department will assign an identification number *[as provided to the department by the EPA]*.

3. An applicant shall complete and submit a Non-Motor Carrier Certification of Financial Responsibility form provided by the department to satisfy the transporter insurance requirement.

AUTHORITY: sections 260.370, 260.373, ***260.385,*** *and 260.395, [RSMo Supp. 2013, and section 260.385,] RSMo [2000]* ***2016****. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify

may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners *[or]/* Operators of Hazardous Waste Facilities

PROPOSED AMENDMENT

10 CSR 25-7.264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The commission proposes to amend sections (1), (2), and (3) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR part 264, July 1, 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall]* apply in this rule in addition to any other modification set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

(2) The owner or operator of a permitted hazardous waste treatment, storage, or disposal facility shall comply with this section in addition to the regulations of 40 CFR part 264. In the case of contradictory or conflicting requirements, the more stringent *[shall]* **requirements** control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the requirements to be added to 40 CFR part 264 subpart E are found in subsection (2)(E) of this rule.)

(A) General. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart A.

[1. A treatment permit is not required under this rule for a resource recovery process that has been certified by the department in accordance with 10 CSR 25-9.020. Storage of hazardous waste prior to resource recovery must be in compliance with this rule.]

(E) Manifest System, Record Keeping, and Reporting. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart E.

1. Missouri requires an original copy of the manifest to be submitted to the department by all instate and out-of-state treatment, storage, or disposal facilities (TSDFs) in accordance with 40 CFR 264.71(e).

2. The owner or operator of a hazardous waste management facility shall submit a report to the department as set forth in this paragraph.

A. All owners or operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the owner or operator is required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

B. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and shipped off-site for treatment, storage, *[resource recovery,]* or disposal, the owner or operator shall meet the same requirements for the following:

(I) All hazardous waste generated on-site during the reporting period that is managed on-site; and

(II) All hazardous waste received from off-site during the reporting period, including hazardous waste generated by another generator and hazardous waste generated at other sites under the control of the owner or operator.

C. In addition to the information *[required]* **specified** in 10 CSR 25-5.262(2)(D), an owner or operator shall include the following information in the summary report:

(I) A description and the quantity of each hazardous waste that was both generated and managed on-site during the reporting period;

(II) For each hazardous waste that was received from off-site, a description and the quantity of each hazardous waste, the corresponding state, and EPA identification numbers of each generator;

(III) For imports, the name and address of the foreign generator;

(IV) The corresponding method of treatment, storage, *[resource recovery,]* disposal, or other approved management method used for each hazardous waste; **and**

(V) The quantity and description of hazardous waste residue generated by the facility*[; and]***.**

[(VI) A summary of both quantitative and qualitative groundwater monitoring data that was received during the reporting period, as required in 40 CFR part 264 subpart F incorporated in this rule and subsection (2)(F) of this rule. (Comment: This does not change the frequency of monitoring required by rules or in specific permit conditions. It only changes the frequency of reporting.)]

3. As outlined in section 260.380.2, RSMo, all owners or operators shall pay a fee to the department of two dollars ($2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri. This fee *[shall be]* **is** referred to as the Out-of-State Waste Fee and *[shall not be paid on]* **does not apply to** hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri.

A. For each owner or operator, this fee shall be paid on or before January 1 of each year and *[shall be]* **is** based on the total tons of hazardous waste received in the aggregate by that owner or operator for the twelve- (12-) month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee. Each twelve- (12-) month period ending on June 30 shall be referred to as a reporting year.

B. Owners or operators may elect, but are not required, to pay this fee on a quarterly basis at the time they file the *[reporting required]* **reports specified** in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay the fee quarterly, owners or operators may elect, but are not required, to pay the fee at the time they file their final quarterly report of each reporting year. However, the total fee for each reporting year must be paid on or before January 1 immediately following the end of each reporting year.

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:

$2 × 250 tons = $500 fee

Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 411:

$2 × 411 tons = $822 fee

Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 52,150:

$2 × 52,150 tons = $104,300 fee

(I) Containers. This subsection sets forth requirements in addition to 40 CFR part 264 subpart I incorporated in this rule.

1. Containers storing hazardous waste must be labeled in accordance with 10 CSR 25-5.262(2)(C) during the entire storage period.

[2. Containers holding ignitable or reactive waste that are stored outdoors or in buildings not equipped with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

3. Containers holding ignitable or reactive waste that are stored indoors shall be located at least fifty feet (50') from the facility's property line unless the following requirements are satisfied:

A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two (2) hours, with each opening protected by an automatically-closing listed one and one-half- (1.5-) hour (B) fire door;

B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property, that can be built upon, shall have a fire-resistance rating of at least four (4) hours, with each opening protected by an automatically-closing listed three- (3-) hour (A) fire door (Comment: All fire doors, closure devices, and windows shall be installed in accordance with the National Fire Protection Agency (NFPA) Code 80, Standards for Fire Doors and Windows, 1995 edition);

C. The construction design of exterior walls shall provide ready accessibility for fire-fighting operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

D. Container storage areas shall be provided with automatic fire suppression systems designed and installed in accordance with the NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition), NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition), NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) standards. Final design of these systems shall be approved by a qualified, registered professional engineer in Missouri;

E. Each container storage area shall have preconnected hose lines capable of reaching the entire area. The fire hose shall be either a one and one-half inch (1.5") line or a one inch (1") hard rubber line. Where a one and one-half inch (1.5") fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

F. Only containers meeting the requirements of, and containing products authorized by, Chapter I, Title 49 of the Code of Federal Regulations (DOT Regulations) or NFPA 386, Standard for Portable Shipping Tanks shall be used;

G. All storage of ignitable or reactive materials shall be organized in a manner which will not physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

H. All containers shall be arranged so there is a minimum aisle space of four feet (4') between rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be stacked or placed closer than three feet (3') from ceilings or any roof members, or both; and

I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response personnel.]

(3) Permitted hazardous waste TSD facilities that accept and/or ship hazardous waste via railroad tank car (railcar) shall comply with the requirements for container storage in 40 CFR part 264 subpart I, as incorporated by reference in 10 CSR 25-7.264(1), or the following requirements for railcar management.

(A) The owner or operator shall submit a railcar management plan with the application for a hazardous waste treatment, storage, or disposal facility permit. Permitted facilities that currently accept and/or ship hazardous waste via railcars shall request a Class I permit modification that requires prior director approval for the railcar management plan according to the procedures defined in 40 CFR 270.42 as incorporated in 10 CSR 25-7.270(1).

1. The railcar management plan shall describe steps to be taken by the facility in order to comply with the requirements of subsections (3)(B)–(3)(F).

2. The railcar management plan *[shall]* **will** be maintained at the facility.

(B) Railcars shall not be used as container or tank storage units at a facility unless the owner or operator complies with the standards for container storage set forth in 40 CFR part 264 subpart I as incorporated in this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270. During the time allowed for loading and unloading as set forth in this section, the railcar *[shall]* **is** not *[be]* considered to be in storage.

1. The owner or operator shall ship hazardous wastes loaded onto a railcar within seventy-two (72) hours after loading is initiated. For the purposes of this section, shipment occurs when—

A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;

B. The transporter returns a signed copy of the manifest to the facility; and

C. The railcar crosses the property boundary line of the TSD facility.

2. The owner or operator shall have a maximum of ten (10) days following receipt of a shipment to unload hazardous waste from incoming railcars. The amount of time allowed for unloading shall be specified in the approved railcar management plan for each facility as part of the permit. The department will review and approve each railcar management plan on a case-by-case basis and will base its decision regarding the time allowed for unloading on factors including, but not limited to, the size of the rail siding, surveillance and security standards, enclosure of the facility, type, and amount of emergency response equipment, and the facility's capacity to handle incidents. Unless more time is allowed by an approved railcar management plan, the owner or operator shall unload hazardous waste from an incoming railcar within seventy-two (72) hours of receipt of the shipment. For the purposes of this section, receipt of the shipment occurs when—

A. The owner or operator signs the shipping paper; or

B. The owner or operator signs the manifest; or

C. The railcar crosses the property boundary line of the TSD facility.

3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo, that fall within the time period approved in the railcar management plan.

4. If the owner or operator finds that a railcar shipment must be rejected, the railcar shall be shipped within twenty-four (24) hours of that determination, or within the time period approved in the railcar management plan, whichever is later. The rejection and the reasons for the rejection shall be documented in the facility's operating record.

5. The owner or operator shall attempt to arrange for the rail carrier to provide the owner or operator a notification detailing when a railcar was picked up from the facility or when a railcar was delivered to the facility. If the rail carrier declines to enter into such arrangements, the owner or operator must document the refusal in the operating record. The time limitations set forth in this subsection must be documented by recording dates and times in the facility's operating record.

6. If the loading and unloading time frames specified in this section are exceeded, then the owner or operator utilizing railcars shall comply with the standards for container storage in 40 CFR part 264 subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR 25-7.270.

*AUTHORITY: sections 260.370, 260.390, and 260.395, RSMo [Supp. 2013] **2016**. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners *[or]/* Operators of Hazardous Waste Facilities

PROPOSED AMENDMENT

10 CSR 25-7.265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The commission proposes to amend section (2) and delete section (3) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(2) The owner or operator of a treatment, storage, or disposal (TSD) facility shall comply with the requirements noted in this section in addition to requirements set forth in 40 CFR part 265 incorporated in this rule. *[In the case of contradictory or conflicting requirements in 10 CSR 25, the more stringent shall control.]* (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the additional requirements to be added to 40 CFR part 265 subpart A are found in subsection (2)(A) of this rule.)

(A) General. In addition to the requirements in 40 CFR part 265 subpart A, the following regulations also apply:

[1. This rule does not apply to an owner or operator for that portion of or process at the facility which is in compliance with 10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes. (Note: Underground injection wells are prohibited in Missouri by section 577.155, RSMo.); and]

*[2.]***1.** State interim status is authorization to operate a hazardous waste treatment, storage, or disposal facility pursuant to section 260.395.15, RSMo, 10 CSR 25-7.265, and 10 CSR 25-7.270 until the final administrative disposition of the permit application is made or until interim status is terminated pursuant to 10 CSR 25-7.270. The owner or operator of a facility or unit operating under state interim status shall comply with the requirements of this rule and 10 CSR 25-7.270. In addition to providing notification to the Environmental Protection Agency (EPA), the owner or operator is required to provide state notification in accordance with 10 CSR 25-7.270.

(E) Manifest System, Record Keeping, and Reporting. This subsection sets forth standards which modify or add to those requirements in 40 CFR part 265 subpart E.

1. All owners or operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the owner or operator is required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

2. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and shipped off-site for treatment, storage, *[resource recovery,]* or disposal, the owner or operator shall meet the same requirements for the following:

A. All hazardous waste generated on-site during the reporting period that is managed on-site; and

B. All hazardous waste received from off-site during the reporting period, including hazardous waste generated by another generator and hazardous waste generated at other sites under the control of the owner or operator.

3. In addition to the information required in 10 CSR 25-5.262(2)(D), an owner or operator shall include the following information in the summary report:

A. A description and the quantity of each hazardous waste that was both generated and managed on-site during the reporting period;

B. For each hazardous waste that is received from off-site, a description and the quantity of each hazardous waste and the corresponding state and EPA identification numbers of each generator;

C. For imports, the name and address of the foreign generator;

D. The corresponding method of treatment, storage, *[resource recovery,]* disposal, or other approved management method used for each hazardous waste.

4. As outlined in section 260.380.2, RSMo, all owners or operators *[shall]* pay a fee to the department of two dollars ($2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri. This fee *[shall be]* **is** referred to as the Out-of-State Waste Fee and *[shall]* **is** not *[be]* paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri.

A. For each owner or operator, this fee shall be paid on or before January 1 of each year and *[shall be]* **is** based on the total tons of hazardous waste received in the aggregate by that owner or operator for the twelve- (12-) month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee. Each twelve- (12-) month period ending on June 30 *[shall be]* **is** referred to as a reporting year.

B. Owners or operators may elect, but are not required, to pay this fee on a quarterly basis at the time they file the reporting *[required]* **specified** in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay the fee quarterly, owners or operators may elect, but are not required, to pay the fee at the time they file their final quarterly or annual report of each reporting year. However, the total fee for each reporting year must be paid on or before January 1 immediately following the end of each reporting year.

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:

$2 × 250 tons = $500 fee

Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 411.

$2 × 411 tons = $822 fee

Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 52,150.

$2 × 52,150 tons = $104,300 fee

(I) Use and Management of Containers. *[This subsection sets forth additional standards for container storage areas.]* ***(Reserved)***

[1. Containers holding ignitable or reactive waste which are stored outdoors or in buildings not equipped with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

2. Containers holding ignitable or reactive waste which are stored indoors shall be located at least fifty feet (50') from the facility's property line, unless the following requirements are satisfied:

A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two (2) hours, with each opening protected by an automatically-closing listed one and one-half- (1.5-) hour (B) fire door;

B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least four (4) hours, with each opening protected by an automatically-closing listed three- (3-) hour (A) fire door (Comment: All fire doors, closure devices, and windows shall be installed in accordance with the National Fire Protection Association (NFPA) Code 80, Standards for Fire Doors and Windows, 1995 edition);

C. The construction design of exterior walls shall provide ready accessibility for fire-fighting operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

D. Container storage areas shall be provided with automatic fire suppression systems designed and installed in accordance with NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition), NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition), NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) Standards. Final design of these systems shall be approved by a qualified, registered professional engineer in Missouri;

E. Each container storage area shall have preconnected hose lines capable of reaching the entire area. The fire hose shall be a one and one-half inch (1.5") line or one inch (1") hard rubber line. Where a one and one-half inch (1.5") fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

F. Only containers meeting the requirements of, and containing products authorized by, Chapter I, Title 49 of the Code of Federal Regulations (DOT Regulations) or NFPA 386, Standard for Portable Shipping Tanks (1990 edition) shall be used;

G. All storage of ignitable or reactive materials shall be organized in a manner which will not physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

H. All containers shall be arranged so that there is a minimum aisle space of four feet (4') between rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be stacked, placed, or both, closer than three feet (3') from ceilings or any roof members; and

I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response personnel.]

[(3) Interim status hazardous waste TSD facilities that accept and/or ship hazardous waste via railroad tank car (railcar) shall comply with the requirements for container storage in 40 CFR part 265 subpart I, as incorporated by reference in 10 CSR 25-7.265(1), or the following requirements for railcar management:

(A) The owner or operator shall submit a railcar management plan with the application for a hazardous waste treatment, storage, or disposal facility permit. Interim status facilities that currently accept and/or ship hazardous waste via railcars shall request a change in interim status that requires director approval for the railcar management plan according to the procedures defined in 40 CFR 270.72 as incorporated in 10 CSR 25-7.270(1).

1. The railcar management plan shall describe steps to be taken by the facility in order to comply with the requirements of subsections (3)(B)–(3)(F).

2. The railcar management plan shall be maintained at the facility;

(B) Railcars shall not be used as container or tank storage units at a facility unless the owner or operator complies with the standards for container storage set forth in 40 CFR part 265 subpart I as incorporated in this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270(1). During the time allowed for loading and unloading as set forth in this section, the railcar shall not be considered to be in storage.

1. The owner or operator shall ship hazardous wastes loaded onto a railcar within seventy-two (72) hours after loading is initiated. For the purposes of this section, shipment occurs when—

A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;

B. The transporter returns a signed copy of the manifest to the facility; and

C. The railcar crosses the property boundary line of the TSD facility.

2. The owner or operator shall have a maximum of ten (10) days following receipt of a shipment to unload hazardous waste from incoming railcars. The amount of time allowed for unloading shall be specified in the approved railcar management plan for each facility as part of the permit. The department will review and approve each railcar management plan on a case-by-case basis and will base its decision regarding the time allowed for unloading on factors including, but not limited to, the size of the rail siding, surveillance and security standards, enclosure of the facility, type, and amount of emergency response equipment, and the facility's capacity to handle incidents. Unless more time is allowed by an approved railcar management plan, the owner or operator shall unload hazardous waste from an incoming railcar within seventy-two (72) hours of receipt of the shipment. For the purposes of this section, receipt of the shipment occurs when—

A. The owner or operator signs the shipping paper; or

B. The owner or operator signs the manifest; or

C. The railcar crosses the property boundary line of the TSD facility.

3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo, that fall within the time period approved in the railcar management plan.

4. If the owner or operator finds that a railcar shipment must be rejected, the railcar shall be shipped within twenty-four (24) hours of that determination, or within the time period approved in the railcar management plan, whichever is later. The rejection and the reasons for the rejection shall be documented in the facility's operating record.

5. The owner or operator shall attempt to arrange for the rail carrier to provide the owner or operator a notification detailing when a railcar was picked up from the facility or when a railcar was delivered to the facility. If the rail carrier declines to enter into such arrangements, the owner or operator must document the refusal in the operating record. The time limitations set forth in this subsection must be documented by recording dates and times in the facility's operating record.

6. If the loading and unloading time frames specified in this section are exceeded, then the owner or operators utilizing railcars shall comply with the standards for container storage in 40 CFR part 265 subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR 25-7.270;

(C) The owner or operator shall comply with 40 CFR 265.17, incorporated in this rule, during railcar loading and unloading. Additional specific precautions to be taken shall include facility design, construction, operation, and maintenance standards as specified in "Loading and Unloading Operations: Tank Vehicles and Tank Cars" in section 5-4.4.1 of the 1993 Edition of the National Fire Protection Association Flammable and Combustible Liquids Code (NFPA 30);

(D) The owner or operator shall provide security for railcars at the facility by utilizing one (1) of the alternatives specified in 40 CFR 265.14(b), as incorporated in this rule. If the owner or operator demonstrates that it is not practical to provide security for railcars at the facility as specified in 40 CFR 265.14(b), incorporated in this rule, railcars shall be secured by locking all fill and drain posts upon receipt of a loaded railcar or upon completion of the owner or operator's loading procedures. The locks must remain in place until the owner or operator begins unloading procedures or until the rail carrier picks up the loaded or rejected railcar for transport off-site;

(E) In accordance with 40 CFR 265.15, incorporated in this rule, the owner or operator shall inspect railcars and surrounding areas at least daily looking for leaks and for deterioration caused by corrosion or other factors; and

(F) In accordance with 40 CFR part 265 subpart C and 40 CFR part 265 subpart D, as incorporated in this rule, the owner or operator shall develop preparedness and prevention procedures and a contingency plan for railcars. If the owner or operator has not prepared a Spill Prevention Control and Countermeasures (SPCC) Plan for hazardous waste, then one must be developed that parallels requirements and guidelines as specified in 40 CFR part 112 for oil. At a minimum, the SPCC Plan must include adequate spill response equipment and preventative measures, such as dikes, curbing, and containment systems.]

*AUTHORITY: sections 260.370, 260.390, and 260.395, RSMo [Supp. 2013] **2016**. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners *[or]/* Operators of Hazardous Waste Facilities

PROPOSED AMENDMENT

10 CSR 25-7.266 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. The commission proposes to amend section (2) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(2) Persons subject to the regulations in 40 CFR part 266 shall comply with the requirements, changes, additions, or deletions noted in this section in addition to 40 CFR part 266 incorporated in this rule. *[(Comment: This section has been organized so that all Missouri additions or changes to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to the management requirements for hazardous waste fuels, 40 CFR part 266 subpart D, are found in subsection (2)(D) of this rule.)]*

(C) Recyclable Materials Used in a Manner Constituting Disposal. *[In addition to the requirements in 40 CFR part 266 subpart C incorporated in this rule, a person who is marketing hazardous waste recyclable materials which would be used in a manner constituting disposal must obtain a hazardous waste resource recovery certification pursuant to 10 CSR 25-9.020.]* ***(Reserved)***

(G) *[Spent Lead-Acid Batteries Being Reclaimed. In addition to the requirements in 40 CFR part 266 subpart G, a person who reclaims materials from spent lead-acid batteries shall obtain a hazardous waste resource recovery certification pursuant to 10 CSR 25-9.020.]* ***(Reserved)***

(H) *[Hazardous Waste Burned in Boilers and Industrial Furnaces. Additions, modifications, and deletions to 40 CFR part 266 subpart H "Hazardous Waste Burned in Boilers and Industrial Furnaces" are as follows:]* ***(Reserved)***

[1. Add the following provision to 40 CFR 266.100(d) incorporated in this rule: "The owner or operator of facilities that process hazardous waste solely for metal recovery in accordance with 40 CFR 266.100(d) shall be certified for resource recovery pursuant to 10 CSR 25-9.020".]

(M) Military Munitions. Additions, modifications, and deletions to 40 CFR part 266 subpart M "Military Munitions" are:

1. Oral and written notifications required by 40 CFR 266.203(a)(1) **and 40 CFR 266.205(a)(1)** shall be submitted to the department's emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director*[; and]***.**

[2. Oral and written notifications required by 40 CFR 266.205(a)(1) shall be submitted to the department's emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director.]

*AUTHORITY: sections 260.370, 260.373, 260.390, and 260.395, RSMo [Supp. 2013] **2016**. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 7—Rules Applicable to Owners *[or]/* Operators of Hazardous Waste Facilities

PROPOSED AMENDMENT

10 CSR 25-7.270 Missouri Administered Permit Programs: The Hazardous Waste Permit Program. The commission proposes to amend sections (1) and (2) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR part 270, July 1, 2013, except for the changes made at 70 FR 53453 September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

(A) Any federal agency, administrator, regulation, or statute that is referenced in 40 CFR part 270 *[shall be]* **is** deleted and the comparable state department, director, rule, or statute as provided in 10 CSR 25-3.260(1)(A) *[shall be]* **is** added in its place except as specified in this rule. The additional substitutions or changes noted in this subsection *[shall]* also apply.

(2) The owner or operator of a permitted hazardous waste treatment, storage, or disposal (TSD) facility shall comply with the requirements noted in this rule along with 40 CFR part 270, incorporated in this rule. *[(Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to 40 CFR part 270 subpart A are found in subsection (2)(A) of this rule.)]*

(A) General Information. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart A.

1. When a facility is owned by one (1) person but is operated by another person, both the owner and operator shall sign the permit application, and the permit shall be issued to both.

2. The owner or operator of a new hazardous waste management facility shall contact the department and obtain a United States Environmental Protection Agency (EPA) identification number *[before commencing]* **as part of the application process for a hazardous waste** treatment, storage, or disposal *[of hazardous waste]* **permit**.

3. In 40 CFR 270.3 "Considerations Under Federal Law," do not substitute any comparable Missouri statute or administrative rule for the federal acts and regulations. This does not relieve the owner or operator of his/her responsibility to comply with any applicable and comparable state law or rule in addition to complying with the federal acts and regulations.

(B) Permit Application. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart B.

1. Existing hazardous waste management facilities must submit a Part A permit application to the department no later than sixty (60) days after the effective date of state rules which first require them to comply with the requirements set forth in 10 CSR 25-7.265 or 10 CSR 25-7.266. A facility which did not meet federal notification and Part A submittal requirements under the Hazardous and Solid Waste Amendments (HSWA) *[shall]* **does** not qualify for state interim status. State interim status is granted to those facilities which either meet federal interim status requirements, are required to meet state interim status requirements because no federal interim status requirements affect the filing, or become subject to regulations under state rules which are not promulgated to meet the requirements of 40 CFR part 271.

2. Confidentiality may be requested for *[the]* **certain permit application** information *[required in]* **submitted pursuant to** 40 CFR 270.13(a)–(m) incorporated in this rule. 10 CSR 25-3.260(1)(B) sets forth requirements for protection of confidential business information and the availability of information provided under 10 CSR 25. Therefore, 40 CFR 270.12 is not incorporated by reference in this rule.

3. All submitted engineering plans and reports shall be approved by a registered professional engineer licensed by Missouri. The engineering plans and reports shall specify the materials, equipment, construction methods, design standards, and specifications for hazardous waste management facilities, and processes that will be

utilized in the construction and operation of the facility. The engineering plans and reports shall also include a diagram of any piping, instrumentation**,** or process flows, and descriptions of any feed systems, safety cutoffs, bypass systems, and pressure controls (for example, vents).

4. The permit application fee set forth in 10 CSR 25-12.010 shall be submitted with the application.

5. The department will supervise any field work undertaken to collect geologic and engineering data which is to be submitted with the application. The applicant shall contact the department at least five (5) working days prior to conducting any field work that is undertaken to collect geologic and engineering data which is to be submitted with the application. A fee shall also be assessed pursuant to 10 CSR 25-12.010 for all costs incurred by the department in the observation of field work, engineering**,** and geological review of the application, and all other review necessary by the department to verify that the application complies with section 260.395.7., RSMo.

6. The permit application shall include the following information for the purpose of notification:

A. Names and address of all persons listed on the facility mailing list as defined in 10 CSR 25-8.124(1)(A)10.C.(I)(c) *[shall be]* submitted in the form of an alphabetical list with five (5) sets of addressed, self-adhesive mailing labels also included; and

B. The name, address, and telephone number of the location where the permit application and supporting documents are to be placed, as described in 10 CSR 25-8.124(1)(B)3.B.(II)(c) and the name of the person at that location who may be contacted to schedule a review of the documents.

7. An applicant may be required to submit other information as may be necessary to enable the department to carry out its duties.

8. The owner or operator of a permitted *[or interim status]* treatment, storage, and disposal (TSD) facility that accepts and/or ships hazardous waste via railroad tank car (railcar) may submit a railcar management plan in accordance with the requirements set forth in 10 CSR 25-7.264(3) *[or 10 CSR 25-7.265(3), as applicable]*.

9. The person applying for a permit under sections 260.350–260.434, RSMo, shall comply with the requirements of 10 CSR 25-8.124(1).

(C) Permit Conditions. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart C.

1. This paragraph sets forth the procedures for issuance of a hazardous waste facility permit, construction certification, and authorization to begin operation.

A. If, after public notice in accordance with 10 CSR 25-8.124 and review of the application, the department determines that the application conforms with the provisions of sections 260.350–260.434, RSMo, and all standards and rules corresponding, the department shall issue the hazardous waste facility permit to the applicant upon payment of a fee of one thousand dollars ($1000) for each facility for each year the permit is to be in effect beyond the first year. *[The department will issue an EPA identification number to the facility at the time.]*

B. The appeal period for a permit or any condition of a permit *[shall]* begin**s** on the date of issuance of the permit as *[required]* **specified** in subparagraph (2)(C)1.A. of this rule. However, for the purposes of termination of interim status pursuant to 40 CFR 270.73(a) incorporated in this rule, final administrative disposition of the permit application *[shall]* occur**s** either—

(I) Thirty (30) days after issuance of a *[letter of authorization]* **final permit** pursuant to this rule, unless a notice of appeal is filed with the commission within that time;

(II) Thirty (30) days after **permit** denial *[of authorization to operate]* pursuant to this rule, unless a notice of appeal is filed with the commission within that time; or

(III) Upon the issuance of a decision by the commission, after timely appeal of an action of this rule.

2. The department may deny the permit application if—

A. The applicant fails to submit a complete application in accordance with, and within the time specified in, a notice of deficiency issued pursuant to 10 CSR 25-8.124(1)(A)3.;

B. The applicant has failed to fully disclose all relevant information in the application or during the permit issuance process or has misrepresented facts at any time;

C. The department determines that the application does not conform with the provisions of sections 260.350–260.434, RSMo, and all corresponding standards and rules, or that the facility cannot be effectively operated and maintained in full compliance with sections 260.350–260.434, RSMo, and all corresponding standards and rules, or that the facility is being operated or maintained in violation of a present permit, or that continued operation of the facility presents an unreasonable threat to human health or the environment or will create or allow for the continuance of a public nuisance;

D. The department determines that one (1) of the conditions specified in section 260.395.17., RSMo, is present; or

E. The applicant owner or operator fails to submit the permit fees *[required by]* **specified in** subparagraph (2)(C)1.A. of this rule within thirty (30) days of receipt of notice from the department that the fees are due.

*AUTHORITY: sections 260.370, 260.373, 260.390, and 260.395, RSMo [Supp. 2013] **2016**. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 8—Public Participation and General Procedural Requirements

PROPOSED AMENDMENT

10 CSR 25-8.124 Procedures for Decision Making. The commission proposes to amend sections (1), (2), (3), and (5) and delete section (4) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's

Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall]* apply in this rule, in addition to any other modifications established in paragraph (1)(A)2. of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control. (Comment: This section has been organized so that Missouri requirements analogous to a particular lettered subpart in 40 CFR part 124 are set forth in the corresponding lettered subsection of section (1) of this rule. For example, the general program requirements in 40 CFR part 124 subpart A, with Missouri modifications, are found in subsection (1)(A) of this rule.)

(A) This subsection sets forth requirements that correspond to those requirements in 40 CFR part 124 subpart A.

1. Purpose and scope. This subsection contains procedures for the review, issuance, class 3 or department-initiated modification, total modification, or revocation of all permits issued pursuant to sections 260.350 through 260.434, RSMo. This subsection also contains procedures for the denial of a permit, either in its entirety or as to the active life of a hazardous waste management facility or unit, under 40 CFR 270.29, as incorporated in 10 CSR 25-7.270. Interim status is not a permit and is covered by specific provisions in 10 CSR 25-7.265 and 10 CSR 25-7.270. Class 1 or class 2 permit modifications, as defined in 40 CFR 270.42 as incorporated in 10 CSR 25-7.270, are not subject to the requirements of this subsection.

2. Definitions. In addition to the definitions given in 40 CFR 270.2, as incorporated in 10 CSR 25-7.270, the definitions below apply to this rule—

A. "Draft permit" means a document prepared under paragraph (1)(A)6. of this rule indicating the department's tentative decision to issue, deny, modify in part or in total, revoke, or reissue a "permit." A notice of intent to revoke, as discussed in subparagraph (1)(A)5.D. of this rule, and a notice of intent to deny, as discussed in subparagraph (1)(A)6.B. of this rule, are types of draft permits. A denial of a request for modification, total modification, or revocation of a permit, as discussed in subparagraph (1)(A)5.B. of this rule, is not a type of "draft permit";

B. "Formal hearing" means any contested case held under section 260.400, RSMo;

C. "Permit application" means the U.S. Environmental Protection Agency standard national forms for applying for a permit, including any additions, revisions, or modifications to the forms; or forms approved by the U.S. Environmental Protection Agency for use in Missouri, including any approved modifications or revisions. It also includes the information *[required]* **specified** by the department under 40 CFR 270.14–270.29, as incorporated into 10 CSR 25-7.270;

D. "Public hearing" means any hearing on a tentative decision at which any member of the public is invited to give oral or written comments;

E. "Revocation" means the termination of a permit;

F. "Schedule of compliance" means a schedule of remedial measures in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with sections 260.350 through 260.434, RSMo;

G. "Total modification" means the revocation and reissuance of a permit;

H. "Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity; and

I. "Variance" means any variation from the Missouri Hazardous Waste Management Law as defined in section 260.405, RSMo.

3. Application for a permit.

A. Any person who requires a permit shall complete, sign, and submit to the department a permit application for each permit required under 40 CFR 270.1, as incorporated in 10 CSR 25-7.270. Permit applications are not required for permits by rule per 40 CFR 270.60, as incorporated in 10 CSR 25-7.270. The department shall not begin the processing of a permit until the applicant has fully complied with the permit application requirements for that permit, as provided under 40 CFR 270.10 and 270.13, as incorporated in 10 CSR 25-7.270. Permit applications shall comply with the signature and certification requirements of 40 CFR 270.11, as incorporated in **10 CSR 25-7.270(2)(A.)1., and** 10 CSR 25-7.270.

B. The department shall review for completeness every permit application. Each permit application submitted by a new facility should be reviewed for completeness by the department within thirty (30) days of its receipt. Each permit application submitted by an existing facility should be reviewed for completeness by the department within sixty (60) days of its receipt. Upon completing the review, the department will notify the applicant in writing whether the permit application is complete. If the permit application is incomplete, the department will list the information necessary to make the permit application complete. When the permit application is for an existing facility, the department will specify**,** in the notice of deficiency**,** a date for submitting the necessary information. The department will notify the applicant that the permit application is complete upon receiving the required information. After the permit application is complete, the department may request additional information from an applicant, but only as necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render a permit application incomplete.

C. If an applicant fails or refuses to correct deficiencies in the permit application, the permit may be denied and enforcement actions may be taken under the applicable statutory provisions of sections 260.350 through 260.434, RSMo.

D. The effective date of a permit application is the date the department notifies the applicant that the permit application is complete, as provided in subparagraph (1)(A)3.B. of this rule.

E. For each permit application the department will, no later than the effective date of the permit application, prepare and mail to the applicant a project decision schedule. The schedule will specify target dates by which the department intends to—

(I) Prepare a draft permit;

(II) Give public notice;

(III) Complete the public comment period, including any public hearing; and

(IV) Issue a final permit decision.

F. If the department decides that a site visit is necessary for any reason in conjunction with the processing of a permit application, the department will notify the applicant and a date will be scheduled.

G. Whenever a facility or activity requires more than one (1) type of environmental permit from the state, the applicant may request, or the department may offer, a unified permitting schedule that covers the timing and order to obtain such permits, as provided in section 640.017, RSMo, and 10 CSR 1-3.010.

4. *Reserved.*

5. Modification, total modification, or revocation of permits.

A. Permits may be modified in part or in total, or revoked, either at the request of the permittee or of any interested person or upon the department's initiative. However, permits may only be modified or revoked for the reasons specified in 40 CFR 270.41 or 40 CFR 270.43, as incorporated in 10 CSR 25-7.270. All requests shall be in writing and shall contain facts and reasons supporting the request.

B. If the department decides the request is not justified, a brief written response giving a reason for the decision shall be sent to the person requesting the permit modification and to the permittee.

Denial of a request for modification, in part or in total, or revocation of a permit is not subject to public notice, comment, or hearing, and is not appealable under section (2) of this rule.

C. Tentative decision to modify.

(I) If the department tentatively decides to modify a permit in part or in total, a draft permit incorporating the proposed changes will be prepared according to paragraph (1)(A)6. of this rule. The department may request additional information and, in the case of a partial permit modification, may require the submission of an updated permit application. In the case of a total permit modification, the department will require the submission of a new permit application.

(II) When a permit is partially modified under this paragraph, only the conditions being modified *[shall be]* **are** reopened. All other conditions of the original permit *[shall]* remain in effect for the duration of the *[original]* **existing** permit. When a permit is totally modified under this paragraph, the entire permit is reopened just as if the permit had expired and was being reissued. During any total modification, the permittee *[shall comply]* **complies** with all conditions of the *[original]* **existing** permit until a new, final permit is issued.

(III) "Class 1 and class 2 permit modifications" as defined in 40 CFR 270.42, as incorporated in 10 CSR 25-7.270, are not subject to the requirements of this paragraph.

D. If the department tentatively decides to revoke a permit, the department will issue a notice of intent to revoke. A notice of intent to revoke is a type of draft permit and follows the same procedures as any draft permit decision prepared under paragraph (1)(A)6. of this rule.

6. Draft permits.

A. Once the technical review of a permit application is complete, the department shall tentatively decide whether to prepare a draft permit, or deny the permit application.

B. If the department **tentatively** decides to deny the permit application, a notice of intent to deny shall be issued. A notice of intent to deny is a type of draft permit and follows the same procedures as any draft permit decision prepared under this paragraph. If the department's final decision under paragraph (1)(A)15. of this rule is that the **tentative** decision to deny the permit application was incorrect, the department shall withdraw the notice of intent to deny and prepare a draft permit under this paragraph.

C. If the department tentatively decides to prepare a draft permit, the department will prepare a draft permit that contains the following information:

(I) All conditions under 40 CFR 270.30 and 270.32, as incorporated in 10 CSR 25-7.270;

(II) All compliance schedules under 40 CFR 270.33, as incorporated in 10 CSR 25-7.270;

(III) All monitoring requirements under 40 CFR 270.31, as incorporated in 10 CSR 25-7.270; and

(IV) Standards for treatment, storage, and/or disposal and other permit conditions under 40 CFR 270.30, as incorporated in 10 CSR 25-7.270.

D. All draft permits prepared under this paragraph will be accompanied by a fact sheet per paragraph (1)(A)8. of this rule, publicly noticed per paragraph (1)(A)10. of this rule, and made available for public comment per paragraph (1)(A)11. of this rule. The department will give notice of opportunity for a public hearing per paragraph (1)(A)12. of this rule, issue a final decision per paragraph (1)(A)15. of this rule, and respond to comments per paragraph (1)(A)17. of this rule. An appeal may be filed under section (2) of this rule.

E. Prior to making the draft permit available for public comment, the department shall deliver the draft permit to the applicant for review, as provided in section 640.016.2, RSMo. The applicant shall have ten (10) days to review the draft permit for nonsubstantive drafting errors. The department shall make the applicant's changes to the draft permit within ten (10) days of receiving the applicant's review and then submit the draft permit for public comment. The applicant may waive the opportunity to review the draft permit prior to public notice.

7. *Reserved.*

8. Fact sheet.

A. A fact sheet will be prepared for every draft permit. The fact sheet will briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The department will send this fact sheet to the applicant and to any person who requests a copy.

B. The fact sheet shall include, when applicable:

(I) A brief description of the type of facility or activity which is the subject of the draft permit;

(II) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;

(III) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions.

*[(III)]***(IV)** Reasons why any requested variances or alternatives to *[required]* **applicable** standards do or do not appear justified;

*[(IV)]***(V)** A description of the procedures for reaching a final decision on the draft permit including:

(a) The beginning and ending dates of the public comment period under paragraph (1)(A)10. of this rule and the address where comments will be received;

(b) Procedures for requesting a hearing and the nature of that hearing; and

(c) Any other procedures by which the public may participate in the final decision; and

*[(V)]***(VI)** Name and telephone number of a department contact for additional information.

9. *Reserved.*

10. Public notice of permit actions and public comment period.

A. Scope.

(I) The department will give public notice that the following actions have occurred:

(a) A notice of intent to deny a permit application has been prepared under subparagraph (1)(A)6.B. of this rule;

(b) A draft permit has been prepared under subparagraph (1)(A)6.C. of this rule;

(c) A hearing has been scheduled under paragraph (1)(A)12. of this rule; **or**

[(d) An appeal hearing has been scheduled under section (2) of this rule; or]

*[(e)]***(d)** A notice of intent to revoke a permit has been prepared under subparagraph (1)(A)5.D. of this rule.

(II) No public notice is required when a request for permit modification, in part or in total, or revocation is denied. A brief written response giving a reason for the decision will be sent to the requester and to the permittee.

(III) Public notices may describe more than one (1) permit or permit action.

B. Timing.

(I) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application and a notice of intent to revoke a permit) *[required]* under subparagraph (1)(A)10.A. of this rule will allow at least forty-five (45) days for public comment.

(II) Public notice of a public hearing will be given at least thirty (30) days before the hearing. Public notice of the hearing may be given at the same time as the public notice of the draft permit, and the two (2) notices may be combined.

C. Methods. Public notice of activities described in part (1)(A)10.A.(I) of this rule will be given by the following methods:

(I) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this part may waive their rights to receive notice for any permit):

(a) The applicant;

(b) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, natural resource management plans, and state historic preservation officers, including any affected states (Indian tribes); and

(c) Persons on a mailing list maintained by the facility which is developed by—

I. Including those who request to be on the list;

II. Soliciting persons for "area lists" from participants in past permit proceedings in that area;

III. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals. The facility shall be responsible for maintaining and updating the mailing list. The department may require the facility to update the mailing list from time-to-time by requesting written indication of continued interest from those listed. The facility may remove from the list the name of any person who fails to respond to such a request;

IV. Including all record owners of real property adjacent to the current or proposed facility, in accordance with section 260.395.8, RSMo;

V. Including, for a post-closure disposal facility, all record owners of real property which overlie any known plume of contamination originating from the facility; and

VI. Including, for an operating disposal facility, all record owners of real property located within one (1) mile of the outer boundaries of the current or proposed facility, in accordance with section 260.395.8, RSMo;

(d) A copy of the notice shall also be sent to the highest elected official of the county and the highest elected official of the city, town, or village having jurisdiction over the area where the facility is currently or proposed to be located, in accordance with section 260.395.8, RSMo, and each state agency having any authority under state law with respect to the construction or operation of such facility; **and**

[(e) The department will mail a copy of the legal notice, fact sheet, and draft permit to the location where the permit application was placed for public review under subpart (1)(B)2.B.(II)(d) of this rule; and]

*[(f)]***(e)** A copy of the notice shall also be sent to any other department program or federal agency which the department knows has issued or is required to issue a Resource Conservation and Recovery Act (RCRA), Hazardous and Solid Waste Amendments (HSWA), Underground Injection Control (UIC), Prevention of Significant Deterioration (PSD), (or other permit issued under the Clean Air Act), National Pollutant Discharge Elimination System (NPDES), 404, or sludge management permit for the same facility or activity (including the U.S. Environmental Protection Agency);

(II) Other publication.

(a) Publish a legal notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(b) For any draft permit that includes active land disposal of hazardous waste, issue a news release to the media serving the area where the facility is currently or proposed to be located, in accordance with section 260.395.8, RSMo; *[and]*

(III) Any other method reasonably calculated to give actual notice of the activity to the persons potentially affected by it, including news releases or any other forum or medium to elicit public participation*[.]*; **and**

(IV) The department will mail a copy of the legal notice, fact sheet, and draft permit to a location accessible to the public, in the vicinity of the facility, where the documents can be viewed and copied.

D. Contents. All notices issued under this paragraph shall contain the following minimum information:

(I) Name and address of the department;

(II) Name and address of the permittee or applicant and, if different, of the facility or activity regulated by the permit;

(III) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(IV) Name, address, and telephone number of a department contact person from whom interested persons may obtain additional information;

(V) A brief description of the comment procedures, the date, time, and place of any hearing that will be held, a statement of procedures for requesting a hearing (unless a hearing has already been scheduled), and any other procedures by which the public may participate in the final permit decision;

(VI) Any additional information considered necessary or proper by the department;

(VII) The location where the information listed in subpart (1)(A)10.C.(I)(e) of this rule was placed for public review; and

(VIII) In addition to the information listed above, the public notice of a public hearing under paragraph (1)(A)12. of this rule shall contain the following information:

(a) Reference to the date of previous public notices relating to the draft permit;

(b) Date, time, and place of the hearing; and

(c) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

E. In addition to the notice described in subparagraph (1)(A)10.D. of this rule, the department shall mail a copy of the permit application (if any), draft permit, and fact sheet to all persons identified in subparts (1)(A)10.C.(I)(a), (b), and (f) of this rule.

11. Public comments and requests for public hearings. During the public comment period provided under paragraph (1)(A)10. of this rule, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and *[shall]* state the nature of the issues to be raised in the hearing. All written comments and oral comments given at the public hearing, if one is held, *[shall be]* **are** considered by the department in making the final permit decision and *[shall be]* **are** answered as provided in paragraph (1)(A)17. of this rule.

12. Public hearings.

A. In accordance with section 260.395.8, RSMo, the department will hold a public hearing whenever a written request for a hearing is received within forty-five (45) days of the public notice under part (1)(A)10.B.(I) of this rule. **In accordance with section 260.395.8, RSMo,** *[F]***f**or any permit that includes active land disposal of hazardous waste, the department shall hold a public hearing after public notice, as *[required]* **specified** in paragraph (1)(A)10. of this rule, before issuing, modifying in total, or renewing the permit; and before any Class 3 or department-initiated permit modification related to the hazardous waste land disposal unit(s), including those necessary due to the department's five- (5-) year review.

B. The department may hold a public hearing at its own discretion whenever there is significant public interest in a draft permit or when one (1) or more issues involved in the permit decision requires clarification.

C. Whenever possible, the department will schedule a public hearing under this paragraph at a location convenient to the nearest population center to the current or proposed facility.

D. Public notice of the public hearing will be given as specified in paragraph (1)(A)10. of this rule.

E. Any person may submit written comments or data concerning the draft permit. The department will accept oral comments during the public hearing. Reasonable limits may be set on the time allowed for oral comments. Any person who cannot present oral comments due to time limitations will be provided an opportunity to present written comments. The public comment period under paragraph (1)(A)10. of this rule will automatically be extended to the close of any public hearing if the public hearing is held later than

forty-five (45) days after the start of the public comment period.

F. A tape recording or written transcript of the public hearing shall be made available to the public.

13. Obligation to raise issues and provide information during the public comment period. All persons, including the applicant, who believes any condition of a draft permit is inappropriate or that the department's tentative decision to deny a permit application, prepare a draft permit, or revoke a permit is inappropriate, shall raise all ascertainable issues and submit all relevant arguments supporting their position by the close of the public comment period under paragraph (1)(A)10. of this rule. Any supporting materials that are submitted shall be included in full and may not be incorporated by reference, unless the supporting materials are state or federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.

14. *Reserved*.

15. Issuance and effective date of permit.

A. For purposes of this paragraph, a final permit decision means the issuance, denial, Class 3 or department-initiated modification, total modification, or revocation of a permit. After the close of the public comment period under paragraph (1)(A)10. of this rule, the department will issue a final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or unit under 40 CFR 270.29, as incorporated in 10 CSR 25-7.270). The department will notify the applicant and each person who submitted written comments, gave oral comments at the public hearing, or requested notice of the final permit decision. This notice will include reference to the procedures for appealing a final permit decision under section (2) of this rule. **The department will mail a copy of the final permit decision to the location where the draft permit was placed for public review under subpart (1)(A)10.C.(II) of this rule.** The department will also send a news release announcing the final permit decision to the media serving the area where the facility is currently or proposed to be located*[, in accordance with section 260.395.8, RSMo]*.

B. A final permit issuance, denial, or modification decision (or a decision to deny a permit either in its entirety or as to the active life of a hazardous waste management facility or unit under 40 CFR 270.29, as incorporated in 10 CSR 25-7.270) will become effective on the date the decision is signed by the department. A final permit revocation decision will become effective thirty (30) days after the department signs the decision, unless no comments requested a change in the draft permit revocation decision, in which case the final permit revocation decision will become effective on the date the decision is signed by the department.

16. *Reserved*.

17. Response to comments.

A. At the same time that any final permit decision is issued under paragraph (1)(A)15. of this rule, the department will issue a response to comments. This response shall—

(I) Specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the change; and

(II) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period and public hearing, if one was held.

B. The response to comments will be made available to the public.

18. *Reserved.*

19. *Reserved.*

20. Computation of time.

A. Any time period scheduled to begin on the occurrence of an act or event *[shall]* begin**s** on the day after the act or event.

B. Any time period scheduled to end before the occurrence of an act or event *[shall]* end**s** on the last working day before the act or event.

C. If the last day of any time period falls on a weekend or legal holiday, the time period *[shall be]* **is** extended to the next working day.

D. Whenever a party or interested person has the right or is required to act within a specific time period after he or she receives notice by mail, three (3) days *[shall be]* **is** added to the time period to allow for mail delivery.

(B) This subsection sets forth requirements that correspond to the requirements in 40 CFR part 124 subpart B.

1. Applicable permit procedures.

A. The requirements of this paragraph *[shall]* apply to all new permit applications and permit applications for renewal of permits where a significant change in facility operations is proposed. For purposes of this paragraph, a "significant change" is any change that would qualify as a class 3 permit modification under 40 CFR 270.42, as incorporated in 10 CSR 25-7.270. The requirements of this paragraph do not apply to class 1 or class 2 permit modifications, as defined in 40 CFR 270.42, as incorporated in 10 CSR 25-7.270, or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

B. At least ninety (90) days prior to submitting a permit application *[for a]* **to construct, substantially alter, or operate a hazardous waste** disposal facility, the applicant shall submit to the department a letter of intent *[to construct, substantially alter, or operate a hazardous waste disposal facility]*, in accordance with section 260.395.7, RSMo. The department will publish the letter within ten (10) days of receipt. The letter will be published as specified in section 493.050, RSMo. The letter will be published once a week for four (4) consecutive weeks in a newspaper of general circulation serving the county in which the facility is currently or proposed to be located.

C. Prior to submitting a permit application for a facility, the applicant shall hold at least one (1) public meeting to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide an opportunity for attendees to voluntarily provide their names and addresses.

D. The applicant shall submit a summary of the meeting, the list of attendees and their addresses developed under subparagraph (1)(B)1.C. of this rule, and copies of any written comments or materials submitted at the meeting to the department as a part of the permit application, in accordance with 40 CFR 270.14(b), as incorporated in 10 CSR 25-7.270.

E. The applicant shall provide public notice of the pre-application meeting at least thirty (30) days prior to the meeting. The applicant shall maintain, and provide to the department as part of the permit application, documentation of the notice.

(I) The applicant shall provide public notice in all of the following forms:

(a) A newspaper advertisement. The applicant shall publish a notice as a display advertisement in a newspaper of general circulation serving the county or equivalent jurisdiction where the current or proposed facility is located. In addition, the applicant shall publish the notice in newspapers of general circulation serving adjacent counties or equivalent jurisdictions;

(b) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility. If the applicant places the sign on the facility property, the sign shall be large enough to be read from the nearest point where the public would pass by the site;

(c) A broadcast media announcement. The applicant shall broadcast a notice as a paid advertisement at least once on at least one (1) local radio station or television station. The applicant may employ another medium with the prior written approval of the department; and

(d) In addition to the department, the applicant shall send a copy of the newspaper advertisement to the units of state and local government described in subpart (1)(A)10.C.(I)(d) of this rule.

(II) All notices *[required]* under this subparagraph shall

include:

(a) The date, time, and location of the meeting;

(b) A brief description of the purpose of the meeting;

(c) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the current or proposed facility location;

(d) A statement encouraging people to contact the facility at least seventy-two (72) hours before the meeting if they need special access to participate in the meeting; and

(e) The name, address, and telephone number of a contact person for the applicant.

2. Public notice requirements at the permit application stage.

A. Applicability. The requirements of this paragraph *[shall]* apply to all new permit applications for hazardous waste management units and permit applications for renewal of permits for such units under 40 CFR 270.51, as incorporated in 10 CSR 25-7.270. The requirements of this paragraph do not apply to permit modifications, as defined in 40 CFR 270.42, as incorporated in 10 CSR 25-7.270, or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

B. Notification at permit application submittal.

(I) The department shall provide public notice as set forth in subpart (1)(A)10.C.(I)(c) of this rule, and notice to the appropriate units of state and local government as set forth in subpart (1)(A)10.C.(I)(d) of this rule, that a complete permit application has been submitted to the department and is available for review.

(II) The notice will be published within a reasonable period of time after the department determines that the permit application is complete. The notice must include:

(a) The name and telephone number of the applicant's contact person;

(b) The name and telephone number of the department contact person and a mailing address to which information and inquiries may be directed throughout the permitting process;

(c) An address to which people can write in order to be put on the facility mailing list;

(d) A location where copies of the permit application and any supporting documents can be viewed and copied;

(e) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the current or proposed facility location on the front page of the notice; and

(f) The date that the permit application was submitted.

C. Concurrent with the notice *[required]* under subparagraph (1)(B)2.B. of this rule, the department will place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the department's office as identified in the notice.

3. Information repository.

A. Applicability. The requirements of this paragraph apply to all applicants seeking hazardous waste management facility permits.

B. The department shall assess the need, on a case-by-case basis, for a local information repository. When assessing the need for a local information repository, the department will consider a variety of factors, including the level of public interest, the type of facility, and the presence of an existing repository. If the department determines, at any time after submittal of a permit application, that there is a need for a local repository, then the department will notify the facility that it must establish and maintain a local information repository.

C. The information repository shall contain all documents, reports, data, and information deemed necessary by the department to fulfill the purposes for which the repository is established. The department will have the discretion to limit the contents of the repository.

D. The information repository shall be located and maintained at a location chosen by the facility. If the department finds the location unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, the department will specify a more appropriate location.

E. The department will specify requirements the applicant must meet for informing the public about the local information repository. At a minimum, the department will require the applicant to provide a written notice about the information repository to all individuals on the facility mailing list.

F. The applicant shall be responsible for maintaining and updating the repository with appropriate information throughout the time period specified by the department. The department may close the repository at its discretion, based on the factors in subparagraph (1)(B)3.B. of this rule.

(2) Appeal of Final Decision.

(A) For purposes of this section, a final permit decision means the issuance, denial, partial or total modification, or revocation of a permit. The requirements of this section apply to final permit decisions, closure plan approvals, post-closure plan approvals, and any condition of a final permit decision or approval.

(B) The applicant or any aggrieved person may appeal to have the matter heard by the Administrative Hearing Commission. To initiate the appeal, the aggrieved party must follow the procedure established in 10 CSR 25-2.020 and sections 260.395.11 and 621.250, RSMo. Written petitions must be filed within thirty (30) days after the date the final permit decision or approval was mailed or the date it was delivered, whichever was earlier. If the written petition is sent by registered or certified mail, the petition will be deemed filed on the date it was mailed. If the written petition is sent by any other method, the petition will be deemed filed on the date it is received by the Administrative Hearing Commission. The written petition *[shall set forth]* **describes** the grounds for the appeal*[. The appeal shall be]* **and the appeal is** limited to issues raised during the public comment period and not resolved in the final permit decision or approval to the applicant's or aggrieved person's satisfaction. Issues included in the written petition outside those raised during the public comment period *[shall not be]* **are not** considered; however, the Administrative Hearing Commission may consider an appeal of a condition in the final permit decision or approval that was not part of the draft permit or proposal and therefore could not have been commented on during the public comment period.

(C) Any appeal under this section *[shall be]* **is** a contested case and *[shall be]* **is** conducted under section 260.400, RSMo.

(D) Any party described in subsection (2)(G) of this rule may petition the Administrative Hearing Commission for an interlocutory order staying the effectiveness of a final permit decision, a closure plan approval, a post-closure plan approval, or any condition of a final permit decision or approval which is subject to an appeal, until the Missouri Hazardous Waste Management Commission enters its final order upon the appeal. At any time during the proceeding, the applicant may apply to the Administrative Hearing Commission for relief from a stay order previously issued.

1. In determining whether to grant a stay or relief from a stay, the Administrative Hearing Commission will consider the likelihood that the petition will eventually succeed on the merits, the potential for harm to the applicant, business, industry, public health, or the environment if the requested stay or relief is or is not granted, and the potential magnitude of the harm.

2. Any decision concerning a petition for a stay or relief from a stay *[shall not be]* **is not** considered a contested case or a final order and *[shall be]* **is** made by a majority of the sitting quorum of the Administrative Hearing Commission.

3. The stay of any final permit decision pending appeal to the Administrative Hearing Commission *[shall have]* **has** the effect of continuing the effect and enforceability of any existing permit until the Missouri Hazardous Waste Management Commission issues a final order upon the appeal, unless the stay is lifted sooner by the

Administrative Hearing Commission. During the appeal proceeding, the stay of any condition of a final permit decision pending appeal *[shall]* **does** not relieve the applicant of complying with all conditions of the final permit decision not stayed.

4. No petition for a stay order or relief from a stay order shall be presented to the Administrative Hearing Commission on less than ten (10) days' notice to all other parties to the proceeding.

(E) A timely written petition of appeal stays the effectiveness of a final permit revocation decision. If a timely written petition of appeal is not filed, the final permit revocation becomes effective thirty (30) days after the department signs the decision.

(F) *[Public notice of the appeal hearing,]* **Any public notice of appeals,** including the time, date, and place of the appeal hearing, *[shall be given]* **will be given by the Administrative Hearing Commission** in accordance with *[part (1)(A)10.C.(II) of this rule. The department will mail a copy of the notice to all persons identified in subparts (1)(A)10.C.(I)(a) and (c) of this rule. After the Hazardous Waste Management Commission issues a final appeal decision, the department will notify the participants in the appeal hearing and each person who requested notice of the final appeal decision. The department will also send a news release announcing the final appeal decision to the media serving the area where the facility is currently or proposed to be located]* **260.400, RSMo**.

(G) The participants in an appeal hearing shall be—

1. The department;

2. The applicant;

3. Any aggrieved person filing a timely written petition of appeal; and

4. Any person who files a timely application for intervention and is granted leave to intervene of right or permissive intervention. Any person desiring to intervene in an appeal shall file with the Administrative Hearing Commission, an application to intervene according to the procedures of Rule 52.12, Supreme Court Rules of Civil Procedure.

A. The application to intervene shall state the interests of the intervener, the grounds upon which intervention is sought, and a statement of the position which the intervener desires to take in the proceeding. The intervener shall serve a copy of the application to intervene on each of the parties to the proceeding as determined under part (1)(A)10.C.(II) of this rule.

B. The Administrative Hearing Commission or duly appointed hearing officer will grant or deny the application to intervene pursuant to Rule 52.12, Supreme Court Rules of Civil Procedure. The Administrative Hearing Commission or hearing officer may condition any grant of intervention as the circumstances may warrant.

(H) A tape recording or written transcript of the appeal hearing shall be made available to the public.

(3) Transporter License.

(A) Issuance or Denial of a Transporter License.

1. Upon receipt of a complete application for a transporter license, the department will determine whether the application conforms to the requirements of sections 260.385 and 260.395, RSMo, and 10 CSR 25-6. The department will notify the applicant of its decision to issue, with or without conditions, or denying the license. If the license is denied, the department will specify the reasons for the denial. No license will be issued until the fees *[required by]* **specified in** section 260.395.1, RSMo, have been paid.

2. The procedure for appealing a license issuance, denial, or any condition of a license *[shall be]* **is** the same as the procedure for appealing a final permit decision under section (2) of this rule.

(B) Revocation of a Transporter License.

1. Transporter licenses may be revoked for the reasons specified in sections 260.379.2, 260.395.3, 260.410.3, and 260.410.4, RSMo, or for failure to comply with sections 260.395.1(2) and 260.395.1(3), RSMo.

2. The department may initiate proceedings to revoke a transporter license. If the department proposes to revoke a transporter license, it will send a notice of intent to revoke by certified mail to the licensee, specifying the provisions of sections 260.350–260.434, RSMo, 10 CSR 25-6, the conditions of the license or the provisions of an order issued to the licensee that the licensee has violated, the manner in which the licensee misrepresented or failed to fully disclose relevant facts, or the manner in which the activities of the licensee endanger human health or the environment or are creating a public nuisance.

3. The procedure for appealing a license revocation *[shall be]* **is** the same as the procedure for appealing a permit revocation under section (2) of this rule. A timely written petition for appeal stays the effectiveness of a license revocation. If a timely written petition for appeal is not filed, the revocation *[shall become]* **is** effective thirty (30) days after the department signs the revocation decision.

[(4) Resource Recovery Facility Certifications.

(A) Issuance of Resource Recovery Facility Certifications. Upon receipt of a complete application for resource recovery facility certification, the department will determine whether the application conforms to the requirements of section 260.395.13, RSMo, and 10 CSR 25-9.020. The department will notify the applicant of its decision to issue, with or without conditions, or deny the certification. If the certification is denied, the department will specify the reasons for the denial. The procedure for appealing a certification issuance, denial, or any condition of a certification will be the same as the procedure for appealing a final permit decision under section (2) of this rule.

(B) Modification of Resource Recovery Facility Certifications.

1. The department may modify a resource recovery facility certification under any of the following circumstances:

A. When required to prevent violations of the requirements of section 260.395.14, RSMo, or 10 CSR 25-9.020;

B. When relevant facts have been misrepresented or not fully disclosed;

C. When required to protect the health of humans or the environment or to prevent or abate a public nuisance;

D. When the facility proposes changing any waste stream(s) managed by the facility; or

E. When the facility proposes changing any processes or equipment utilized for resource recovery operations at the facility.

2. If the department proposes to modify the resource recovery facility certification, it will send a notice of intent to modify by certified mail to the certificate holder, specifying the reasons for the proposed modification and the manner in which the certificate is proposed to be modified.

3. The facility may appeal any certification modifications, except those requested by the facility that were approved as proposed without further modification. The procedure for appealing a certification modification shall be the same as the procedure for appealing a final permit decision under section (2) of this rule.

(C) Revocation of Resource Recovery Facility Certifications.

1. The department may initiate proceedings to revoke a resource recovery facility certification. If the department decides to revoke a resource recovery facility certification, it will send a final revocation by certified mail to the certificate holder, specifying the provisions of section 260.395.14, RSMo, 10 CSR 25-9.020, or an order issued to the certificate holder that have been violated, the manner in which the certificate holder misrepresented or failed to fully disclose relevant facts, or the manner in which the activities at the facility endanger human health or the environment or are

creating a public nuisance.

2. Resource recovery facility certifications may be revoked for the reasons specified in paragraph (4)(B)1. of this rule.

3. The procedure for appealing a certification revocation shall be the same as the procedure for appealing a permit revocation under section (2) of this rule. A timely written petition for appeal stays the effectiveness of a certification revocation. If a timely written petition for appeal is not filed, the revocation shall become effective thirty (30) days after the department signs the revocation decision.]

*[(5)]***(4)** Variances.

(A) Applicability. According to section 260.405.1, RSMo, unless prohibited by any federal hazardous waste management act, the Hazardous Waste Management Commission may grant individual variances from the requirements of sections 260.350 to 260.430, RSMo, whenever it is found, upon presentation of adequate proof, that compliance will result in an arbitrary and unreasonable taking of property or in the practical closing and elimination of any lawful business, occupation, or activity, in either case without sufficient corresponding benefit or advantage to the people. The commission will not consider any petition for variance that would permit the occurrence or continuance of a condition that unreasonably poses a present or potential threat to the health of humans or other living organisms. The department may require any petitioner for a variance to submit mailing lists and mailing labels *[required]* to accomplish the public notice requirements of this section.

(B) Evaluation. Upon receipt of any petition for a variance, the department will evaluate the petition to determine whether the request is substantive or non-substantive based upon the effect of the proposed variance on facility operations, types of waste, type and volume of hazardous waste management units, location of facility, public interest, and compliance history. Variances from generator or transporter requirements will be deemed non-substantive provided all conditions of subsection (3)(A) of this rule are met.

(C) Substantive Variance. If a variance petition is deemed substantive, the department will—

1. Upon receipt—

A. Mail a notice to all record owners of real property located within one (1) mile of the outer boundaries of the facility, the highest elected official of the county, and the highest elected official of the city, town, or village having jurisdiction over the area where the facility is located; and

B. Issue a news release to the media and publish a legal notice in a newspaper of general circulation serving the area where the facility is located;

2. Within sixty (60) days of receipt—

A. Prepare a recommendation as to whether the variance should be granted, granted with conditions, or denied;

B. Submit the recommendation to the Missouri Hazardous Waste Management Commission;

C. Notify the petitioner of the recommendation;

D. Publish a legal notice regarding the recommendation in a newspaper of general circulation serving the area where the facility is located; and

E. Mail a notice regarding the recommendation to all record owners of real property adjacent to the facility, the highest elected official of the county, and the highest elected official of the city, town, or village having jurisdiction over the area where the facility is located; and

3. Request a formal hearing before the Missouri Hazardous Waste Management Commission or a duly appointed hearing officer on the variance petition and the department's recommendation, as provided in section 260.400, RSMo.

(D) Non-Substantive Variance. If a variance petition is deemed non-substantive, the department will comply with paragraph (5)(C)2. of this rule. The Missouri Hazardous Waste Management Commission will hold a formal hearing as provided in section 260.400, RSMo, if requested by the petitioner. A request for a formal hearing may also be made by any aggrieved person if the department's recommendation is to grant the variance with or without conditions. Any request by the petitioner or aggrieved person for a formal hearing shall be made in writing within thirty (30) days of the date the legal notice regarding the recommendation is published.

(E) Final Decision. If no formal hearing is requested, the Missouri Hazardous Waste Management Commission shall make a decision on the variance at a public meeting held no earlier than thirty (30) days from the date the legal notice regarding the recommendation was published.

(F) Hearing Procedures. Any hearings under this section *[shall be]* **are** a contested case pursuant to section 260.400 and Chapter 536, RSMo. The participants *[shall be]* **are** the department, the petitioner, any aggrieved person who requests a formal hearing, and any person who files a timely application for intervention and is granted leave to intervene. Any person desiring to intervene shall file an application to intervene with the Missouri Hazardous Waste Management Commission secretary within thirty (30) days from the date the legal notice regarding the recommendation is published.

1. The application to intervene shall state the interests of the intervener, the grounds upon which intervention is sought, and a statement of the position that the intervener desires to take in the proceeding. The intervener shall serve a copy of the application to intervene on each of the parties listed in subsection (5)(F) of this rule.

2. The Missouri Hazardous Waste Management Commission or duly appointed hearing officer will grant or deny the application to intervene pursuant to Rule 52.12, Supreme Court Rules of Civil Procedure. The Missouri Hazardous Waste Management Commission or hearing officer may condition any grant of intervention as the circumstances may warrant.

(G) If the applicant fails to comply with the terms and conditions of the variance as specified by the Missouri Hazardous Waste Management Commission, the variance may be revoked or modified by the commission after a formal hearing held after no less than thirty (30) days' written notice. The department will notify all persons who will be subjected to greater restrictions if the variance is revoked or modified and each person who requested notice from the department.

*AUTHORITY: sections 260.370, [RSMo Supp. 2013, and sections] 260.400, 260.405, and 260.437, RSMo [2000] **2016**. Original rule filed June 1, 1998, effective Jan. 30, 1999. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To

be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 9—Resource Recovery

PROPOSED RESCISSION

10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes. This rule established a system of issuing certificates to individuals or facilities engaged in the recovery or recycling of hazardous waste.

PURPOSE: This rule is being rescinded because entities subject to its requirements have alternative requirements in place that allow them to engage in the same activity without needing to obtain a certificate from the department. The alternative requirements are contained in a federal rule that will be proposed for adoption in Missouri. These conditions established in the federal rule will ensure that recycling and handling of this material is done in a safe and protective manner, while the burdens of the existing rule and resource recovery certification process are not producing a corresponding environmental benefit.

AUTHORITY: sections 260.370, 260.373, and 260.395, RSMo Supp. 2013, and section 260.437, RSMo 2000. Original rule filed Feb. 16, 1990, effective Dec. 31, 1990. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed June 12, 2018.*

PUBLIC COST: This proposed rescission will cost state agencies or political subdivisions eighty-two thousand five hundred sixty-one dollars ($82,561) 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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

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FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 25-9.020, Hazardous Waste Resource Recovery Processes
Type of Rulemaking:	Rescission

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	Loss of $22,000 annually in oversight costs
Department of Natural Resources	Loss of $53,561 annually in hazardous waste tonnage fees for recycled hazardous secondary material
Department of Natural Resources	Loss of $7,000 in fixed costs related to Department's role in review of resource recovery certificates
Total annual loss to Department of Natural Resources	$82,561

III. WORKSHEET

Cost Recovery for resource recovery facilities

Amount charged in FY 17 for oversight related to issuance of resource recovery certificate:

$22,000

Fixed costs for oversight of resource recovery certificates in FY 17:

$7,000

Loss of hazardous waste fees on excluded material

$53,561 – based on FY 17 adjusted for projects which have already been exempted

Total annual loss = $22,000 + $7,000 + $53,561

IV. ASSUMPTIONS

1. Approximately 20 facilities operate under resource recovery certificates. The actual amount varies as certificates expire and are reissued. Current certificate holders would no longer need certificates if the rule is rescinded assuming they instead operate under the exclusion from the definition of solid waste for recycled hazardous secondary material

2. Hazardous waste fees based on the amount of hazardous waste generated would no longer apply to hazardous secondary materials recycled under one of the exclusions proposed for adoption.

3. The Department would also no longer collect fees associated with the oversight of resource recovery facilities

4. Administrative/facility inspection burden would shift from the Permits Section of the Department's Hazardous Waste Program to the program's Compliance and Enforcement Section as well as the Department's Regional Offices.

5. Loss of hazardous waste fees is based on the amount of fees charged for this material in FY 17 that would have been lost if the material was not considered hazardous waste

6. Although the amount generated in any one year may vary, the Department assumes a constant amount for purposes of this fiscal note

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 10—Abandoned or Uncontrolled Hazardous Waste Disposal Sites

PROPOSED RESCISSION

10 CSR 25-10.010 Abandoned or Uncontrolled Hazardous Waste Disposal Sites. This rule implements a statute that establishes the Missouri Registry of Abandoned or Uncontrolled Hazardous Waste Disposal Sites.

PURPOSE: The rule is proposed for rescission because a review of the rule as part of the department's Red Tape Reduction initiative revealed that much of the rule merely restates language that is already in the statute itself. The few elements of the rule not found in the statute are no longer necessary. Because of the duplicative language and the fact that some of the information is outdated, the burdens of implementing the requirements written in the existing rule are not producing a corresponding environmental benefit.

AUTHORITY: sections 260.370, 260.437, 260.440, 260.445 and 260.455, RSMo Supp. 2000. Original rule filed Aug. 14, 1984, effective March 1, 1985. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed June 12, 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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 11—Used Oil

PROPOSED AMENDMENT

10 CSR 25-11.279 Recycled Used Oil Management Standards. The commission proposes to amend sections (1), (2), and (3) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR parts 110.1, 112, and 279, July 1, 2013, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall apply]* **applies** in this rule in addition to any other modifications set forth in section (2) of this rule. *[Where conflicting rules exist in 10 CSR 25, the more stringent shall control.]*

(2) This section sets forth specific modification to 40 CFR part 279, incorporated by reference in section (1) of this rule. A person managing used oil shall comply with this section in addition to the regulations in 40 CFR part 279. In the case of contradictory or conflicting requirements, the more stringent *[shall]* **rules** control. (Comment: This section has been organized so that Missouri additions, changes, or deletions to a particular lettered subpart in 40 CFR part 279 are noted in the corresponding lettered subsection of this section. For example, changes to 40 CFR part 279 subpart A are found in subsection (2)(A) of this rule.)

(D) Standards for Used Oil Collection Centers and Aggregation Points. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart D.

1. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points owned by the generator may accept used oil from farmers not regulated under 40 CFR part 279 subpart C.

2. In addition to the requirements of 40 CFR part 279 subpart D, do-it-yourselfer used oil collection centers, used oil aggregation points, and used oil collection centers shall notify the solid waste district in which they operate or the department's Hazardous Waste Program of their used oil collection activities.

A. Notification shall be by letter and *[shall]* include the following:

(I) The name and location of the collection center;

(II) The name and telephone number of the owner or operator;

(III) The name and telephone number of the facility contact, if different from the owner or operator;

(IV) The type of collection center; and

(V) The dates and hours of operation.

B. The notification submitted by a used oil collection center will satisfy the requirement of 40 CFR 279.31(b)(2) that the used oil collection center be recognized by the state.

C. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points shall notify the solid waste district in which they operate or the department's Hazardous Waste Program when their used oil collection activities cease.

D. The notifications to operate or cease to operate received by a solid waste district shall be transmitted to the department's Hazardous Waste Program for public information purposes or be incorporated in the information submitted to the department as part of their regular reporting requirements.

3. No quantity of used oil collected by do-it-yourselfer oil collection centers, used oil collection centers, and used oil aggregation points shall be stored for more than twelve (12) months at the collection center or aggregation point.

4. Do-it-yourselfer used oil collection centers, used oil collection centers, and used oil aggregation points shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

5. Used oil collection centers, do-it-yourselfer used oil collection centers, and used oil aggregation points shall have a means of

controlling public access to the used oil storage area.

A. Access control may be an artificial or natural barrier which completely surrounds the storage area or access control may be achieved by storing the used oil inside a locked building.

B. An attendant shall be present when the public has access to the do-it-yourselfer used oil collection center, used oil collection center, and used oil aggregation point. No public access shall be allowed to the stored used oil when the collection center or aggregation point is unattended.

(E) Standards for Used Oil Transporters and Transfer Facilities. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart E.

1. In addition to the requirements of 40 CFR 279.42, transporters of used oil shall be licensed in accordance with the requirements in 10 CSR 25-6.263.

2. In addition to the requirements of 40 CFR 279.45(d)–(f), incorporated by reference in this rule, secondary containment systems shall have a capacity equal to or greater than ten percent (10%) of the containerized waste volume, or the volume of the largest container, whichever is greater. (Note: Facilities that store used oil in tanks near navigable waters may be subject to the spill prevention, control, and counter-measures standards found in 40 CFR 112.)

3. In addition to the requirements of 40 CFR 279.46, incorporated by reference in this rule, the following shall apply:

A. *[The information described in 40 CFR 279.46(a)–(c), incorporated by reference in this rule, shall be recorded on form MO 780-1449(11-93), the Transporter's Used Oil Shipment Record, incorporated by reference in this rule and provided by the department; and]* ***(Reserved)***

B. All transporters who transport one thousand (1,000) gallons or more used oil in a reporting period must submit the information described in 40 CFR 279.46(a) and (b) to the director of the department's Hazardous Waste Program annually, on form MO 780-1555, the Transporter's Annual Report Form, incorporated by reference in this rule and provided by the department. The form shall include information for a reporting period from July 1 to June 30, and *[shall]* be submitted by August 31 following the reporting period.

4. In addition to the requirements of 40 CFR 279.46 incorporated in this rule, transporters of used oil operating a transfer facility shall maintain an inventory log to assure the off-site shipment of used oil within thirty-five (35) days.

5. In addition to the requirements of 40 CFR 279.46(d), incorporated in this rule, the inventory log described in paragraph (2)(E)4. of this rule shall be maintained for at least three (3) years, or longer if *[required]* **requested** by the department.

6. In addition to the requirement of 40 CFR 279.47, used oil transporters who operate a transfer facility shall close the transfer facility in accordance with 10 CSR 25-6.263(2)(A)10.G.

7. Used oil transfer facilities shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

8. For shipments involving rail transportation, the initial rail transporter shall forward copies of the shipping record to—

A. The next nonrail transporter, if any;

B. The receiving facility if the shipment is delivered by rail; or

C. The last rail transporter handling the used oil in the United States.

(F) Standards for Used Oil Processors and Re-Refiners. This subsection sets forth requirements which modify or add to those *[required by]* **in** 40 CFR part 279 subpart F.

1. In 40 CFR 279.52(b)(6)(iv)(B), incorporated in this rule, the government official described as the on-scene coordinator shall be either the department's emergency response coordinator or the EPA Region VII emergency planning and response branch.

2. In addition to the requirements at 40 CFR 279.54(c) and (d), secondary containment systems shall have a capacity equal to or greater than ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater. (Note: Facilities that store used oil in tanks near navigable waters may be subject to the spill prevention, control, and counter-measures standards found in 40 CFR 112.)

3. In 40 CFR 279.54(g), incorporated by reference in this rule, delete "the effective date of the authorized used oil program for the State in which the release is located," and insert in its place "the original effective date of 10 CSR 25-11.279."

4. In 40 CFR 279.52(b)(6)(viii)(C), incorporated in this rule, the state authority to be notified is the director of the department's Hazardous Waste Program.

5. Used oil processors and re-refiners shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

(G) Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart G.

1. In addition to the requirements of 40 CFR 279.64(c)–(e), secondary containment systems shall have a capacity equal to or greater than ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater. (Note: Facilities that store used oil in tanks near navigable waters may be subject to the spill prevention, control, and counter-measures standards found in 40 CFR 112.)

2. In 40 CFR 279.64(g), incorporated in this rule, delete "the effective date of the authorized used oil program for the State in which the release is located," and insert in its place "the original effective date of 10 CSR 25-11.279."

3. Used oil burners shall provide the transporter who delivers each shipment of used oil with the information *[required]* **specified** in 40 CFR 279.65, incorporated in this rule, and *[shall]* retain for three (3) years a copy of the completed form MO 780-1449(4-94), the Transporter's Used Oil Shipment Record for each shipment received. The period of record retention shall extend automatically during the course of any pending enforcement action, or upon the director's request. The records shall be available to authorized representatives of the department for inspection and copying during regular business hours.

4. Used oil burners shall keep all tanks and containers that are exposed to rainfall closed at all times except when adding or removing used oil.

(H) Standards for Used Oil Fuel Marketers. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart H.

1. Used oil marketers subject to 40 CFR 279.74, incorporated in this rule, shall provide the transporter who delivers each shipment of used oil with the information *[required]* **specified** in 40 CFR 279.74 and *[shall]* retain for three (3) years a copy of the completed form MO 780-1449(4-94), the Transporter's Used Oil Shipment Record for each shipment received. The period of record retention shall extend automatically during the course of any pending enforcement action, or upon the director's request. The records shall be available to authorized representatives of the department for inspection and copying during regular business hours.

(I) Standards for Use as a Dust Suppressant and Disposal of Used Oil. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 279 subpart I.

1. 40 CFR 279.81 is not incorporated in this rule. Instead of the requirements in 40 CFR 279.81, the following shall apply:

A. *[Used]* **Manage used** oil that cannot be or is not intended to be recycled *[in accordance with this rule shall be managed]* in accordance with 10 CSR 25-5, 6, 7, 9, and 13, and release of even non-hazardous used oil into the environment is prohibited.

2. The use of used oil as a dust suppressant on a road, parking lot, driveway, or other similar surface is prohibited.

3. 40 CFR 279.82 is not incorporated in this rule.

(3) Requirements for Low Concentration Polychlorinated Biphenyls (PCB) Used Oil.

[(C) Low concentration PCB used oil that cannot be or is not intended to be recycled in accordance with this rule shall be assigned Missouri waste code number D096. The generator shall record this waste code as any shipment record or manifest that accompanies a consignment of low concentration PCB used oil that is destined for disposal.]

*[(D)]***(C)** A generator, transporter, or owner/operator of a hazardous waste management facility, certified resource recovery facility**,** or PCB facility that manages low concentration PCB used oil may be required to verify by analysis or investigation, or both, that the used oil is not PCB material as defined in 10 CSR 25-13.010.

*[(E)]***(D)** No person shall dispose of oily waste resulting from a spill or leak of low concentration PCB used oil in a solid waste landfill if the oily waste contains equal to or greater than one (1) pound of PCBs.

*AUTHORITY: section 260.370, RSMo [Supp. 2013] **2016**. Original rule filed Jan. 5, 1994, effective Aug. 28, 1994. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 12—Hazardous Waste Fees and Taxes

PROPOSED AMENDMENT

10 CSR 25-12.010 Fees and Taxes. The commission proposes to amend sections (1), (2), and (3) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) Hazardous Waste Fees Applicable to Generators of Hazardous Waste. The fees in this section apply notwithstanding any conflicting language in any other rule regarding the amount of any of the fees listed in this section.

(A) In-State Waste Fee. A generator of hazardous waste shall pay the In-State Waste Fee annually in accordance with this subsection.

1. The fee shall be paid annually on or before January 1 of each year.

2. The fee shall be based on the waste reported to the department for the twelve- (12-) month period ending June 30 of the previous year.

3. For the purpose of calculating this fee, any portion of a ton shall be assessed as though it were a whole ton.

4. *[Beginning with the reporting year covering July 1, 2016 to June 30, 2017, t]***T**he first ton of waste generated each year shall be assessed a fee of two hundred dollars ($200). *[For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the minimum fee shall be one hundred fifty dollars ($150).]*

5. *[Beginning with the reporting year covering July 1, 2016 to June 30, 2017, e]***E**ach additional ton of waste shall be assessed a fee of six dollars and ten cents ($6.10). *[For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the rate shall be five dollars ($5) per ton.]*

6. *[Beginning with the reporting year covering July 1, 2016 to June 30, 2017, n]***N**o generator site may be assessed a fee in excess of fifty-seven thousand dollars ($57,000) for any given year. *[For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, no generator site may be assessed a fee in excess of fifty-two thousand dollars ($52,000) for any given year.]*

7. Failure to pay this fee in full by the due date shall result in the imposition of a late fee equal to fifteen percent (15%) of the total original fee.

EXAMPLES OF IN-STATE WASTE FEE CALCULATION (These examples are for the rates that go into effect beginning with the July 1, 2016 to June 30, 2017 reporting year.)

Example 1. ABC Company reports 0.4 tons of hazardous waste. The number of tons would be rounded to 1 ton.

The fee would be $200 because the fee on the 1st ton of waste is $200.

Example 2. ABC Company reports 25 tons of hazardous waste.

$6.10 × 24 tons +$200 for 1st ton= $346.40 fee

Example 3. ABC Company reports 11,001 tons of hazardous waste.

$6.10 × 11,000 tons +$200 for 1st ton= $67,300 fee

The fee would be $57,000, because that is the maximum annual fee.

8. **No fee will be assessed on** *[H]***h**azardous waste that is discharged by a generator to a municipal wastewater treatment plant, which is regulated by a permit issued by the Missouri Clean Water Commission*[, shall be assessed a fee of zero cents per ton (0¢/ton) of hazardous waste so managed]*.

(B) Land Disposal Fee. A generator *[required to register]* **subject to registration** in accordance with 10 CSR 25-5.262 shall pay a land disposal fee in accordance with this subsection. *[Beginning with the reporting year covering July 1, 2016 to June 30, 2017, t]***T**he fee shall be paid annually, on or before January 1 of each year, at the rate of twenty-nine dollars and fifty cents ($29.50) per ton or portion thereof for the hazardous waste reported to the department for the twelve- (12-) month period ending June 30 of the

previous year, having been discharged, deposited, dumped, or placed into or on the soil as a final action. For all reporting years prior to the July 1, 2016 to June 30, 2017 reporting year, the rate shall be twenty-five dollars ($25) per ton. *[This fee shall not be]* **No fee will** be assessed on generators who land dispose less than ten (10) tons of hazardous waste.

1. Failure to pay this fee in full by the due date shall result in a fifteen percent (15%) late fee being assessed on the amount owed.

2. When this fee is paid after the prescribed due date, interest shall be assessed on the period from the fee's due date to the date the fee is paid in full at an annual rate of ten percent (10%).

EXAMPLES OF LAND DISPOSAL FEE CALCULATION (These examples are for the rates that go into effect beginning with the July 1, 2016 to June 30, 2017 reporting year.)

Example 1. ABC Company reports land disposing 9.8 tons of hazardous waste. The fee would not be assessed since less than 10 tons of waste was land disposed.

Example 2. ABC Company reports land disposing exactly 10 tons of hazardous waste.

$29.50 x 10 tons = $295 fee

Example 3. ABC Company reports land disposing 124.3 tons of hazardous waste. The number of tons would be rounded to 125.

$29.50 x 125 tons = $3,687.50 fee

(C) *[A generator required to register in accordance with 10 CSR 25-5.262 shall pay a landfill tax of two percent (2%) of the gross charges and fees charged for disposal, which is collected by the landfill owner/operator when depositing waste at a hazardous waste landfill.]* ***(Reserved)***

(E) Registration Fee. A generator *[required to register]* **subject to registration** in accordance with 10 CSR 25-5.262 shall pay the following registration fees:

1. *[Prior to October 1, 2016, all new generator registration and registration renewal fees will be one hundred dollars ($100). Beginning October 1, 2016, all new generator registration and registration renewal fees that will cover calendar year 2017 and beyond will be assessed at the new rates established in this subsection. The amount of the registration fee]* **All new generator registration and renewal fees** will be based upon the generator status of the generator. The fee schedule is as follows:

A. A generator registering as a Large Quantity Generator shall pay a registration fee of five hundred dollars ($500);

B. A generator registering as a Small Quantity Generator shall pay a registration fee of one hundred fifty dollars ($150); and

C. A generator registering as a Conditionally Exempt Small Quantity Generator shall pay a registration fee of one hundred fifty dollars ($150);

2. A registration fee will be paid with the submittal of the registration form required by 10 CSR 25-5.262 when one (1) of the following is true:

A. The generator is applying for a new ID number (initial registration);

B. The generator is reactivating an existing ID number that had been inactivated;

C. There has been a change in the ownership of the generator (initial registration for the new company); and

D. A SQG or CESQG who changes their generator status to LQG and has already paid the one hundred fifty dollar ($150) registration fee for the year as required by this subsection shall pay three hundred fifty dollars ($350) with the submittal of the required registration form;

3. The following constitutes the procedure for registration renewal:

A. The amount of the registration renewal fee is also based upon the generator status of the generator at the time the invoice is generated and uses the same schedule as the registration fee;

B. The calendar year shall constitute the annual registration period;

C. Annual registration renewal billings will be sent by December 1 of each year to all generators holding an active registration;

D. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but *[shall]* not *[pay]* the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, they shall pay the annual renewal fee*[. For any generator registering between October 1, 2016 and December 31, 2016, the initial registration fee will be assessed at the new rates established in this subsection for the calendar year that begins on January 1, 2017]*;

E. Any generator *[required to register]* **subject to registration** who fails to pay the annual renewal fee by the due date specified on the billing shall be administratively inactivated and subject to enforcement action for failure to properly maintain their registration;

F. Generators administratively inactivated for failure to pay the renewal fee in a timely manner, who later in the same registration year pay the annual renewal fee, shall pay a fifteen percent (15%) late fee in addition to the *[required]* annual renewal fee for each applicable registration year and shall file an updated generator registration form with the department before their registration is reactivated by the department;

G. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay a fifteen percent (15%) late fee in addition to the *[required]* annual renewal fee and file an updated generator registration form with the department before their registration is reactivated by the department; and

H. **The department will immediately revoke the registration of** *[A]***a**ny person who pays the annual renewal fee with what is found to be an insufficient check *[shall have the registration immediately revoked]*; and

4. Large quantity generator registration renewal petition process. A generator may petition to have a single large quantity generator registration renewal fee cover multiple generator sites with different ID numbers as long as at least one (1) generator site is a large quantity generator and the generator can demonstrate to the satisfaction of the department that each of the following conditions has been met:

A. All of the generator sites are owned or leased by the same person and all are under control of the same person;

B. The generator provides a single point of contact for all generator sites within the group;

C. Each generator site is adjacent to a property that also shares a border with at least one (1) other generator site in the group, or all generator sites are accessible by a common roadway, or all generator sites are within the recognized boundaries of an industrial park, warehouse district, research campus, or academic campus, provided that all generator sites are in close proximity to one another and can be inspected as a single facility;

D. The generator submits a map that shows the location of each generator site covered by the single registration fee;

E. All of the generator sites share a single contingency plan, a single repository for required records, and a unified training plan that covers all of the large quantity and small quantity generator sites; and

F. The generator must submit an updated petition and map any time a generator site is added to or removed from the group and each generator site must have an existing ID number before it can be

added to the group.

(F) Out-of-State Waste Fee. All owners/operators of Missouri treatment, storage, or disposal facilities shall pay annually, on or before January 1 of each year, a fee to the department of two dollars ($2) per ton or portion thereof for all hazardous waste received from outside the state. This fee shall be based on the hazardous waste received for the twelve- (12-) month period ending June 30 of the previous year. This fee shall not be paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri. Failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee.

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri.

$2 x 250 tons = $500 fee

Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 411.

$2 x 411 tons = $822 fee

Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 52,150.

$2 x 52,150 tons = $104,300 fee

(2) Fees and Taxes Applicable to Transporters of Hazardous Waste.

(A) A transporter *[required to register]* **subject to registration** as a generator under 10 CSR 25-6.263 and, in accordance with 10 CSR 25-5.262, shall pay fees and taxes *[required under]* **specified in** section (1) of this rule.

(C) A hazardous waste transporter as defined at 10 CSR 25-3.260, except those exempted in subsection (E) of this section, requesting a hazardous waste transporter license in accordance with 10 CSR 25-6.263 shall submit to the department along with their license application the following fees:

1. An annual application fee of two hundred dollars ($200); and

2. A use-based fee, calculated by adding the total licensed vehicle weight (LVW) of power units, and multiplying by the percentage of Missouri International Registration Plan (IRP) mileage (MOIRP) by the percent hazardous waste (HW) times a use rate of .0425. The formula is: LVW × %MOIRP × %HW × .0425 = Use Fee. Fee calculations shall be submitted on forms furnished by the department in its application packet. Transporters shall base all calculations on the period of twelve (12) consecutive months immediately prior to July 1 immediately preceding the date of the license application. This time frame is known as the "previous year."

A. For those power units which utilize the International Registration Plan (IRP) or 12 CSR 20-3.010 for apportioned registration, the transporter shall use the reported Missouri IRP mileage for the previous year.

B. For those power units not required to track IRP miles, the transporter shall calculate MOIRP mileage by dividing the Missouri mileage of their power units by total mileage for the previous year.

C. The percentage of hazardous waste will be the number of hazardous waste, used oil, or infectious waste truckloads from, to**,** or through Missouri, divided by the total truckloads from, to**,** or through Missouri, in the form of a percentage, for the previous year.

D. New transporters who wish to obtain a hazardous waste license and have no "previous year" history of hauling hazardous waste, shall calculate license fees based on estimates of MOIRP mileage and percent hazardous waste.

(I) If an estimate is used to calculate the license fee, the transporter shall, within sixty (60) days of the expiration of the license, report the actual Missouri mileage and percent hazardous waste for the current license year. The renewal fee will include the license fee for the next year, plus any money owed the department due to an underestimation of the current year, plus ten percent (10%).

(II) *[The department shall not issue]* **No** refunds **will be issued by the department,** but **the department** will issue credit for license fees in excess of ten percent (10%) (overestimation) for the next license year.

E. A transporter who wishes to add another power unit other than when applying for the annual license shall submit, along with power unit descriptions, a fee computed from this formula: LVW of power unit × %MOIRP × %HW × .0425 = Use Fee. Divide this figure by twelve (12), then multiply by the number of months remaining in the license year to derive the fee.

F. To replace one (1) power unit for another (due to accident, sale, or extended maintenance) submit all the required information for the replacement and a license certificate will be issued for that power unit for a limited period.

G. A temporary permit can be issued for thirty (30)*[-]* days for a fee of fifty dollars ($50) for a power unit that is, for example, a temporary lease that is added to the fleet.

3. The total fee shall not exceed twenty-five thousand dollars ($25,000) per transporter per year.

(E) Other than power unit transporters are not subject to the requirements of subsections (C) and (D) of this section. The license fee for each mode of transport other than power units shall be three hundred fifty dollars ($350) per transporter per year. An other than power unit transporter shall not originally include, nor add, more than one (1) mode on the same license. For example, *[a license for rail transport shall]* **for a rail transport license, do** not include power unit hazardous waste transportation.

(3) Fees and Taxes Applicable to Applicants for Permits or Certifications and to Owners/Operators of Treatment, Storage, **and** Disposal*[, or Resource Recovery]* Facilities.

(A) An owner/operator of hazardous waste treatment, storage, or disposal facility shall pay fees and taxes *[required]* **as specified** in subsections (1)(A), (B), and (C) of this rule. An owner/operator of a hazardous waste treatment, storage, **and** disposal*[, or resource recovery]* facility also shall pay fees and taxes *[required]* **as specified** in section (1) of this rule for hazardous waste which is transported off-site for final disposition. (Note: These fees are not applicable to waste transported off-site for storage only; however, the fees are applicable to the waste transported from the storage facility to the point of final disposition except as provided in section (1).)

(B) A permit applicant shall pay the following fees upon application as *[required]* **specified** in subdivision 260.395.7(6), RSMo and in accordance with 10 CSR 25-7.270(2)(B)8.: One thousand dollars ($1,000) for each hazardous waste management treatment, storage, or disposal facility. The fee shall be submitted with the application. The fee shall cover the first year of the permit, if issued, but the fee is not refundable if the permit is not issued. If the permit is to be issued for more than one (1) year, the applicant shall pay fees as *[required]* **specified** in subsection (3)(C) of this rule.

(C) A permit applicant shall pay the following fees as *[required]* **specified** in subdivision 260.395.7(6), RSMo, and in accordance with 10 CSR 25-7.270(2)(C)1.A.: One thousand dollars ($1,000) for each hazardous waste management treatment, storage, or disposal facility for each year the permit is to be in effect beyond the first year.

(D) An applicant for a hazardous waste treatment, storage, or disposal facility permit *[or resource recovery certification]* shall pay all applicable costs in accordance with 10 CSR 25-7.270(2)(B)9.*, [10 CSR 25-9.020(5),]* and as *[required]* **specified** by subdivisions 260.395.7(7) and 260.395.14(2), RSMo for engineering and geological review. Those costs for engineering and geological review will be billed in the following categories:

1. The project engineer's and geologist's time expended in the following areas:

A. Supervision of field work undertaken to collect geologic and engineering data for submission with the permit application or resource recovery certification application;

B. Review of geologic and engineering plans submitted in relation to the permit application *[or resource recovery certification application]*;

C. Assessment and attesting to the accuracy and adequacy of the geologic and engineering plans submitted in relation to the permit application *[or resource recovery certification application]*; and

D. The project engineer's and geologist's time billed at the engineer's and geologist's hourly rates multiplied by a fixed factor of three and one-half (3 1/2). This fixed factor is comprised of direct labor; fringe benefits including, but not limited to, insurance, medical coverage, Social Security, Workers' Compensation, and retirement; direct overhead, including, but not limited to, clerical support and supervisory engineering review and Hazardous Waste Program administrative and management support; general overhead, including, but not limited to, utilities, janitorial services, building expenses, supplies, expenses and equipment, and department indirect costs; and engineering support, including, but not limited to, training, peer review, tracking and coordination;

2. The direct costs associated with travel to the facility site to supervise any field work undertaken to collect geologic and engineering data or to ascertain the accuracy and adequacy of geologic and engineering plans, or both, including, but not limited to, expenses actually incurred for lodging, meals, and mileage based on the rate established by the state of Missouri. These costs are in addition to the costs in paragraph (3)(D)1. of this rule; and

3. Costs directly associated with public notification and departmental public hearings, including legal notice costs, media broadcast costs, mailing costs, hearing officer costs, court reporter costs, hearing room costs, and security costs, will be billed to the applicant. In a contested case as defined in section 536.070(4), RSMo, costs related to preparing and supplying one (1) copy of the transcript(s) of the case shall not be charged to the applicant.

[(F) The applicant for a resource recovery certificate shall pay the following fee in accordance with 10 CSR 25-9.020(4) and subdivision 260.395.14(2), RSMo when submitting the application: Five hundred dollars ($500) if the application is for a resource recovery facility which legitimately reclaims or recycles hazardous waste on-site in accordance with 10 CSR 25-9 or one thousand dollars ($1,000) if the application is for a resource recovery facility which receives hazardous waste from off-site for legitimate reclamation or recycling in accordance with 10 CSR 25-9.]

*AUTHORITY: sections 260.370, **260.380,** 260.390, [and] 260.391, [RSMo Supp. 2013, sections 260.380 and] **260.395, 260.437, and** 260.475, [RSMo Supp. 2014, section 260.395, RSMo Supp. 2015, and section 260.437,] RSMo [2000] **2016**. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 13—Polychlorinated Biphenyls

PROPOSED AMENDMENT

10 CSR 25-13.010 Polychlorinated Biphenyls. The commission proposes to amend sections (1) through (6), and sections (8) and (10) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR parts 761.3, 761.30(a)(2)(v), 761.60(b)(1)(i)(B), 761.60(g), 761.65(b), 761.71, 761.79, 761.72, and 761.180(b), July 1, 2013, as published by the Office of Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall apply]* **applies** in this rule in addition to any other modifications set forth in this rule. *[Where conflicting rules exist in 10 CSR 25, the more stringent shall control.]*

(2) Applicability.

(A) This rule *[shall apply]* **applies** in the state of Missouri to all polychlorinated biphenyls (PCB) material and PCB units as defined in subsection (3)(A) in shipment to or from or managed at a Missouri PCB facility.

(B) Used oil containing PCBs at a concentration of less than fifty parts per million (50 ppm) and not otherwise meeting the definition of PCB material shall be managed in accordance with 10 CSR 25-11.

(C) Where conflicting regulations exist in 10 CSR 25, the more stringent *[shall]* control**s**.

(D) This rule does not relieve a regulated person from his/her responsibility to comply with the federal Toxic Substances Control Act, 15 USC 2601–2629 (December 22, 1987) or the corresponding regulations.

(3) Definitions and Substitution of Terms. This section supplements and modifies the definitions in 10 CSR 25-3 and 10 CSR 25-7.

(C) *[The following terms shall be substituted]* **Substitute the following terms** in the portions of 40 CFR Part 264, 40 CFR Part 265, 40 CFR Part 270, and 10 CSR 25 that apply in this rule:

1. "PCB material," "PCB units," or both *[shall be substituted]* for "hazardous waste";

2. "PCB facility" *[shall be substituted]* for "hazardous waste facility"; "hazardous waste treatment, storage or disposal facility"; "treatment, storage or disposal facility"; and "HWM facility"; and

3. "PCB facility permit" *[shall be substituted]* for "Part B permit" and "RCRA permit."

(4) Manifesting, Record Keeping, and Reporting.

(A) *[Assignment of PCB Identification Numbers. PCB material and PCB units are assigned the following PCB identification numbers:]* **(Reserved)**

[M001 Mineral oil dielectric fluid containing equal to or greater than fifty parts per million (50 ppm) PCBs but less than five hundred parts per million (500 ppm) PCBs.

M002 PCB-contaminated electrical equipment with dielectric fluid.

M003 PCB-contaminated electrical equipment that has been drained of all free-flowing liquids.

M004 Dielectric fluid containing greater than five hundred parts per million (500 ppm) PCBs.

M005 PCB transformers with dielectric fluid.

M006 PCB transformers that have been drained of all free-flowing liquids.

M007 PCB transformers that have been flushed with solvent as prescribed in 40 CFR 761.60(b)(1)(i)(B).

M008 Capacitors contaminated with PCBs.

M009 Soil, solids, sludges, dredge materials, clothing, rags, or other debris contaminated with PCBs.

M010 PCB-contaminated solvent. (Note: Any PCB-contaminated solvent that meets the definition of hazardous waste shall further be identified by the appropriate EPA identification number.)

M011 Other PCB material.

M012 Other PCB units.]

(B) Manifests. All shipments destined to or originating from a Missouri PCB facility shall meet the requirements of 40 CFR 761.207 through 40 CFR 761.219. Any *[required]* reports *[shall be]* **specified in these regulations are to be** submitted to the department as well as to the EPA Regional Administrator.

(D) Reporting Requirements. The owner or operator of a PCB facility shall **complete and** submit the following reports to the department:

1. *[The owner or operator shall submit an annual report]* **An annual report prepared in accordance with 40 CFR 761.180(b)** by July 15 of each year that covers the previous calendar year. *[The annual report shall be prepared in accordance with 40 CFR 761.180(b).]*

2. *[The owner or operator shall complete and submit,]* **A quarterly report that includes the following information** within forty-five (45) days after the end of each calendar quarter*[, a quarterly report that includes the following information]***:**

A. The name, address, and phone number of the facility;

B. The quarter for which the report is prepared;

C. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) received during the quarter. For the purpose of this report, any dielectric fluid drained from electrical equipment shall be designated as M001 or M004, as applicable;

D. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) generated on-site;

E. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) treated on-site and the method of treatment;

F. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) transferred to other treatment, storage, or disposal facilities. A summary shall be prepared for each individual facility utilized and shall include a list of shipping dates and the method of final disposition;

G. A summary of the total quantity of PCB material and PCB units (designated by PCB identification number) retained at the facility at the end of the reporting quarter;

H. In chronological order, a copy of each PCB manifest received during the reporting quarter;

I. In chronological order, all completed manifests utilized for off-site shipments during that calendar quarter; and

J. A certification **with original signature of the owner or operator** which reads: "CERTIFICATION: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete for the quarterly accounting of PCB material so handled, and the operations of the facility referenced herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." *[The original signature of the owner or operator shall follow this certification.]*

(E) Operating Record. The owner or operator of a PCB facility shall maintain a written operating record. This subsection sets forth record keeping requirements for storage and transfer operations. A PCB facility shall also comply with the applicable record keeping requirements set forth in sections (7) and (8) of this rule. The information *[required]* **specified** in this subsection shall be recorded, as it becomes available, and maintained in the operating record of the facility until closure of the facility.

1. When PCB material is transferred from a PCB article or PCB container to a PCB container (for example, bulk tank or drum), the owner or operator shall record the following information:

A. The date of transfer;

B. The quantity of PCB material transferred;

C. The appropriate PCB identification number or some other reference to the type of material and PCB concentration;

D. Identification of the container into which the PCBs were transferred; and

E. The manifest document number from the manifest that accompanied the consignment or some other type of cross reference to the manifest document number.

2. When PCB material is transferred from a bulk tank to a tank truck, the owner or operator shall record information that indicates—

A. The date transported;

B. The tank identification and tank level or the quantity of PCB material removed from the tank; and

C. The manifest document number(s) associated with the off-site shipment(s).

(5) Transporter Requirements.

(D) In addition to existing state and federal requirements, the department may require that **PCB transporters use** specific safety equipment, spill control equipment, and spill cleanup procedures *[be utilized by PCB transporters]*.

(6) Provisionally Regulated PCB Facilities.

(A) A PCB facility that meets the following criteria is defined as a provisionally regulated PCB facility:

1. *[The facility accepts only PCB waste numbers M002 and M003 for treatment and storage;]* ***(Reserved)***

2. The quantity of PCB material accumulated on-site never exceeds ten thousand pounds (10,000 lbs);

3. The quantity of large PCB units accumulated on-site never exceeds fifty (50) units; and

4. The treatment processes conducted at the facility are limited to decontamination of PCB units that contained less than five hundred parts per million (500 ppm) PCBs.

(B) The owners or operators of provisionally regulated PCB facilities shall *[comply with the following:*

1. Notification. The facility owner or operator shall] submit a notification letter to the department prior to commencing operation as a PCB facility*[. The notification letter shall]* **that**

includes the following information:

*[A.]***1.** The facility name, address, and telephone number; and

*[B.]***2.** A description of the existing and proposed treatment and storage methods and capacities;

*[2.]***3.** Manifesting. PCB articles that are transported to a facility for the purpose of servicing need not be accompanied by a manifest; and

*[3.]***4.** Owners or operators of PCB-contaminated metals reclamation incinerators shall meet the minimum technical standards in subsection (12)(A) of this rule.

(8) Standards for Owners and Operators of PCB Facilities. The owner and operator of a permitted Missouri PCB facility shall comply with this section. This section sets forth standards for a Missouri PCB facility permit which modify and add to the requirements of 40 CFR part 264 incorporated by reference in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2), which apply in this rule. For those subsections marked *Reserved* in which no modification or addition is indicated, the requirements of 10 CSR 25-7.264 and those 40 CFR parts incorporated by reference in 10 CSR 25-7.264(1) apply.

(I) Use and Management of Containers. This subsection sets forth standards which modify or add to those requirements in 40 CFR Part 264 Subpart I incorporated in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2)(I).

1. The term container as used in this subsection *[shall mean]* **means** PCB article, PCB container, or both.

2. The storage area shall meet the requirements in 40 CFR 761.65(b).

3. The temporary storage exemptions in 40 CFR 761.65(c)(1) are not allowed for permitted PCB facilities.

(O) PCB Incinerators. This subsection sets forth standards applicable to PCB incinerators which modify or add to those requirements in 40 CFR part 264 subpart O, incorporated by reference in 10 CSR 25-7.264(1).

1. The provisions of 40 CFR 264.340(b), as incorporated in 10 CSR 25-7.264(1), *[shall]* **do** not apply in this rule.

2. The requirements of 40 CFR 264.343(a)(1), as incorporated in 10 CSR 25-7.264(1), are modified to require an incinerator burning PCBs to achieve a destruction and removal efficiency (DRE) of ninety-nine and nine thousand nine hundred ninety-nine ten-thousandths percent (99.9999%).

3. The provisions of 40 CFR 264.343(a)(2) as incorporated in 10 CSR 25-7.264(1) *[shall]* **do** not apply in this rule.

4. Combustion criteria for PCB liquids and combustion gases entering a secondary chamber shall be either of the following:

A. Maintenance of the introduced liquids for a two- (2-) second dwell time at twelve hundred degrees Celsius, plus or minus one hundred degrees Celsius (1,200°C ± 100°C) and three percent (3%) excess oxygen in the stack gas; or

B. Maintenance of the introduced liquids for a one and one-half (1 1/2) second dwell time at sixteen hundred degrees Celsius, plus or minus one hundred degrees Celsius, (1,600°C ± 100°C) and two percent (2%) excess oxygen in the stack gas.

5. Combustion efficiency shall be at least ninety-nine and nine-tenths percent (99.9%), computed as follows: Combustion efficiency equals the concentration of carbon dioxide divided by the sum of the concentration of carbon dioxide and the concentration of carbon monoxide multiplied by one hundred

$$\left(\frac{C_{CO_2}}{C_{CO_2} + C_{CO}} \right) \times 100$$

where

C_{CO_2} = the concentration of carbon dioxide; and

where

C_{CO} = the concentration of carbon monoxide.

6. The provisions of 40 CFR 264.344(a)(2), as incorporated in 10 CSR 25-7.264(1) *[shall]* **do** not apply in this rule.

(10) PCB Facility Permitting. The requirements in 40 CFR part 270, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2) apply in this rule. This section sets forth standards for a Missouri PCB facility permit which modify and add to the requirements of 40 CFR part 270 incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2). This section does not apply to an owner or operator of a provisionally regulated PCB facility or a mobile treatment unit provided that the owner or operator maintains compliance with section (6) or (7) of this rule, respectively. For those subsections marked *Reserved* in which no modification or addition is indicated, the requirements of 10 CSR 25-7.270 and those 40 CFR parts incorporated by reference in 10 CSR 25-7.270(1) apply in this rule.

(B) Permit Application. This subsection sets forth standards which modify or add to the requirements in 40 CFR part 270 subpart B, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2)(B).

1. The requirements for qualifying for interim status are set forth in paragraph (10)(G)2. of this rule.

2. The waste analysis plan *[required]* **specified** by 40 CFR 270.14(b)(3), as incorporated in 10 CSR 25-7.270(1), shall be prepared in accordance with subsection (8)(B).

3. These requirements are in addition to the specific information requirements for incinerators in 40 CFR 270.19 as incorporated in 10 CSR 25-7.270(1).

A. 40 CFR 270.19(a), as incorporated in 10 CSR 25-7.270(1), *[shall]* **does** not apply in this rule.

B. In addition to the requirements of 40 CFR 270.19(c)(5) as incorporated in 10 CSR 25-7.270(1), methods and results of monitoring for the following parameters shall be submitted from any previously-conducted trial burns: oxygen (O_2); carbon dioxide (CO_2); oxides of nitrogen (NO_x); hydrochloric acid (HCl); total chlorinated organic content (RCl); PCBs; and total particulate matter.

(G) Interim Status. This subsection sets forth standards which modify or add to those requirements in 40 CFR Part 270 Subpart G, incorporated by reference in 10 CSR 25-7.270(1) and modified in 10 CSR 25-7.270(2)(G).

1. A PCB facility that meets the requirements of this subsection may continue to operate without a PCB permit if the facility remains in compliance with the interim status requirements in this subsection.

2. A PCB facility *[shall qualify]* **qualifies** for interim status if the facility—

A. Was in operation on August 13, 1986;

B. Filed a letter of intent with the department before December 12, 1986 to construct, alter, or operate the facility; and

C. Is in compliance with section (9) of this rule.

*AUTHORITY: sections 260.370, [and] 260.395, [RSMo Supp. 2013,] and [section] 260.396, RSMo [2000] **2016**. Original rule filed Aug. 14, 1986, effective Jan. 1, 1987. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not

required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 15—Hazardous Substance Environmental Remediation (Voluntary Cleanup Program)

PROPOSED AMENDMENT

10 CSR 25-15.010 Hazardous Substance Environmental Remediation (Voluntary Cleanup Program). The commission is deleting section (2), amending sections (3), (4), (5), (6), (8), and (9), and renumbering as needed.

PURPOSE: This rule is being amended to eliminate portions of the rule that only restate information that can also be found in the state statutes that establish the program. Removing these duplicative requirements will eliminate the need for future updates to the rule text if statutory provisions change in the future.

[(2) Definitions and Substitution of Terms. This section supplements and modifies the definitions in 10 CSR 25-3. Where these definitions differ from those in 10 CSR 25-3, the modified definition is applicable only in this rule.

(A) Additional Definitions.

1. Days means calender days unless otherwise specified.

2. Environmental remedial cleanup means a remedial action at an affected site undertaken and financed by a person, which remedial action is subject to oversight and approval by the department, and with respect to which remedial action the person agrees to pay the department's site-specific costs incurred in administration and oversight.

3. Hazardous substance means any hazardous substance specified in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. sections 9601(14)(A)–(F) and any hazardous waste as defined in section 260.360, RSMo or any rules promulgated under sections 260.350–260.480, RSMo.

4. Nonresidential property means any real property currently or previously used for industrial or commercial purposes, or both.

5. Participation fees means the two hundred dollar ($200) application fee, the initial oversight costs deposit not to exceed five thousand dollars ($5000) and all additional oversight cost reimbursements.

6. Person means any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity which is recognized by law as the subject of rights and duties.

7. Phase I environmental site assessment means a noninvasive physical assessment of the real property conducted in accordance with American Society for Testing and Materials (ASTM) Standard E.1527 by a technical consultant who is familiar with the nature of the operations and activities that have occurred on the real property.

8. Phase II environmental site assessment means an invasive investigation by a technical consultant of those areas of concern identified during the Phase I environmental site assessment.

(B) Modified definition applicable only to this rule. Remediation or remedial action means all appropriate actions taken to clean up contaminated real property, including but not limited to removal, remedial action and response as these terms are defined by the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601).]

*[(3)]***(2)** Intent to Participate.

[(A) Persons desiring to remediate real property with oversight by the department shall request an application form from the department.]

*[(B)]***(A)** *[The application form shall include the information set forth in section 260.567.1, RSMo and any other existing and relevant information required by the department. The application form shall be filled out completely and returned to the department with the two hundred dollar ($200) application fee.]* Application forms may be submitted at any time from the completion of a Phase I environmental site assessment up through the development, but not including the implementation, of a remedial action plan. *[Sites where remediation had been initiated or completed since August 28, 1994, will not be accepted into the voluntary cleanup program except in cases where limited action was taken to abate an emergency resulting from a release of hazardous substance.]*

*[(C)]***(B)** The department will review the form for completeness. The department will return any form deemed incomplete to the person for completion. Upon receipt of all requested information, the department will notify the person that the application form is complete and proceed according to section *[(4)]* **(3)** of this rule.

*[(D)]***(C)** The department will deny applications for sites *[which warrant clean-up under force of law or regulation under Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., as amended, or the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601 et seq., as amended, or the Missouri Hazardous Waste Management law]* **pursuant to section 260.567.2, RSMo, including sites** that fall within any of the following categories:

1. Conditions at a site constitute an imminent and substantial threat to public health or the environment;

2. Site inspection is completed and the site is being evaluated for listing on the **National Priorities List (**NPL**)**; **or**

3. Permitted or interim status Resource Conservation Recovery Act facilities*[; or]***.**

[4. Sites which warrant enforcement action for clean-up under the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act, or the Missouri Hazardous Waste Management Law.]

*[(4)]***(3)** Environmental Remediation Oversight *[Agreement]*.

[(A) Upon approval of the application, the department shall enter into a site-specific environmental remediation oversight agreement with the person. This agreement shall sets forth the responsibilities of the person and the department.

(B) The person shall post an initial five thousand dollar ($5000) deposit with the department or a lesser amount as determined by the department to cover the department's initial oversight costs. The deposit shall be a check or an irrevocable letter of credit issued by a Missouri bank.

(C) The person shall submit a copy of all reports concerning the results of any site assessments, investigations, sample collections and sample analyses, and any other existing and relevant information requested by the department. At a minimum, such reports and information shall consist of a Phase I environmental site assessment.]

*[1.]***(A)** All reports, including other information requested by the department pursuant to *[subsection (4)(C) of this rule]* **section 260.567.3, RSMo**, shall be submitted within ninety (90) days following receipt of notice from the department that these reports are required. An extension may be granted at the department's discretion.

*[2.]***(B)** The department will review and comment on the reports within one hundred eighty (180) days. The one hundred eighty (180) days shall start upon receipt of all the reports or the deposit *[required in subsection (4)(B) of this rule]* **pursuant to section 260.567.3, RSMo**, whichever is later.

*[(D)]***(C)** The person shall notify the department's voluntary cleanup project manager by telephone, facsimile or letter no later than five (5) working days before the intended starting date of field work relating to site characterization or remediation.

*[(5)]***(4)** Remedial Action Plan.

(A) The person shall submit a remedial action plan for any contamination identified in the environmental site assessments within ninety (90) days following notice from the department that this information is required. An extension may be granted at the department's discretion. The remedial action plan shall satisfy the requirements of section 260.567.6., RSMo.

[1.] The department shall review the remedial action plan and determine if the plan is protective of human health and the environment. If revisions or modifications of the plan are necessary, the department will notify the person of the required revisions.

[2. The final remedial action plan, including all the revisions or modifications, shall be approved by the department within ninety (90) days of receipt if the plan satisfies the requirements of section 260.567.6., RSMo.

(B) Implementation of the Approved Remedial Action Plan.

1. The approved remedial action plan shall be implemented by the person in accordance with the schedule contained in the work plan.

2. Quarterly progress reports shall be submitted to the department on forms provided by the department.]

*[3.]***(B) Completion Report.** A final completion report signed by the person or an authorized agent, documenting that all required work has been satisfactorily completed shall be submitted to the department.

[4. Departmental review and oversight of the environmental remediation shall be conducted in accordance with the provisions of the approved remedial action plan.]

*[(6)]***(5)** Notification of Completion. The department will issue a letter *[to the person stating that no remedial action or no further remedial action need be taken at the site related to any contamination identified in the environmental assessments, provided that—]* **of completion pursuant to section 260.573, RSMo.**

[(A) The person has complied with all provisions of this rule and sections 260.565—260.575, RSMo;

(B) Remedial actions, if any, have been taken in accordance with the approved remedial action plan; and

(C) All applicable participation fees have been remitted to the department.]

*[(7)]***(6)** Termination of Environmental Remediation.

(A) Pursuant to section 260.567.11., RSMo, a person may terminate participation at any time by providing the department with written notification *[by certified mail]*. This termination does not affect the person's environmental liability.

(B) Pursuant to section 260.569.3., RSMo, the department may terminate a person's participation in the environmental remediation oversight agreement for cause.

(C) Reimbursement of unspent oversight monies shall be handled in accordance with section 260.569.4., RSMo.

*[(8)]***(7)** Oversight Reimbursements. The person shall reimburse the department for site-specific administration and oversight costs in accordance with section 260.569.1, RSMo and this rule.

(A) A complete accounting of the costs incurred by the department will be billed to the person by certified mail at the following rates:

1. Personnel. The project manager's and geology and laboratory field personnel's hourly rates multiplied by a fixed factor of three and one-half (3 1/2) will be the basis for time accounting billing. This fixed factor is comp*[ri]***o**sed of direct labor costs; fringe benefits, calculated at a rate developed by the department, indirect costs calculated at a rate approved by the United States *[Department of the Interior]* **Environmental Protection Agency**; and direct overhead, including, but not limited to, the cost of clerical support and supervisory engineering review and Hazardous Waste Program administrative and management support;

2. Expenses. The direct expenses incurred during administration and oversight and any analytical costs associated with sampling; plus indirect costs calculated at the approved United States *[Department of the Interior]* **Environmental Protection Agency** rates; and

3. Monitoring fee. For sites *[which]* **that** require engineering and/or institutional controls (e.g., capping, deed restrictions), the person shall submit a fee to cover the department's long-term monitoring costs. The department's voluntary cleanup project manager shall establish a site-specific monitoring fee, ranging from five thousand dollars to fifteen thousand dollars ($5,000–$15,000). The amount of the monitoring fee shall be dependent upon the complexity of the site and the type of engineering and/or institutional controls.

(B) The person shall reimburse the department as follows:

[1. Initial department expenses shall be reimbursed from the two hundred dollar ($200) fee accompanying the application form.]

*[2.]***1.** After the two hundred dollar ($200) application fee has been expended **pursuant to section 260.569.1, RSMo**, reimbursement shall be made from the deposit *[required in subsection (4)(B) of this rule]* **pursuant to section 260.567.3, RSMo**.

*[3.]***2.** The department shall bill the person for any further expenses. The person shall reimburse the department within sixty (60) days following notice from the department that reimbursement is due. Failure to submit timely reimbursement may be grounds for termination of the environmental remediation oversight agreement.

(C) The person may appeal *[to the commission any charge within thirty (30) days of receipt of the bill in accordance with procedures outlined in section (9) of this rule]* **pursuant to section 260.569.1, RSMo**. Upon appeal to the commission, the disputed amount shall be placed in escrow pending resolution of the appeal.

*[(9)]***(8)** Appeals.

[(A) The person may appeal to the commission any departmental action under sections 260.565—260.575, RSMo or this rule.

1. Appeals shall be filed with the staff director to the commission by certified mail within thirty (30) days of the disputed department action.

2. Appeals shall be in writing and shall specify the grounds for the appeal.]

[(B)] Appeal hearings will be conducted by the commission in accordance with section 260.400, RSMo.

AUTHORITY: sections 260.370, 260.567, 260.569, 260.571, and

*260.573, RSMo [2000] **2016**. Original rule filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Rescinded: Filed June 12, 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: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action. Interested persons, whether or not heard, may submit a written or email statement of their views until midnight on September 20, 2018. Written comments shall be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management Commission
Chapter 16—Universal Waste

PROPOSED AMENDMENT

10 CSR 25-16.273 Standards for Universal Waste Management. The commission proposes to amend sections (1) and (2) of the rule.

PURPOSE: All of the rules in Title 10, Division 25 relating to hazardous waste generators, permitted hazardous waste facilities, and hazardous waste transporters were reviewed as part of the department's Red Tape Reduction initiative for the purpose of reducing regulations that unnecessarily burden individuals and businesses while doing little to protect or improve public health and safety and our natural resources. The purpose of this amendment is to make changes consistent with this initiative to this rule.

(1) The regulations set forth in 40 CFR part 273, July 1, 2013 as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) *[shall apply]* **applies** in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent *[shall]* **rules** control.

(2) Small and large quantity handlers of universal waste, universal waste transporters, universal waste collection programs, and owners/operators of a universal waste destination facility shall comply with the requirements noted in this section in addition to requirements set forth in 40 CFR part 273 incorporated in this rule. (Comment: This section has been organized such that Missouri additions or changes to a particular federal subpart are noted in the corresponding subsection of this section. For example, the requirements to be added to 40 CFR part 273 subpart A are found in subsection (2)(A) of this rule.)

(B) Standards for Small Quantity Handlers of Universal Wastes. In addition to the requirements in 40 CFR part 273 subpart B, the following regulations also apply except that additional state specific requirements do not apply to batteries as described in 40 CFR 273.2, as incorporated in this rule:

1. In addition to the requirements of 40 CFR 273.11, a small quantity handler of universal waste is prohibited from accepting universal waste pesticides from other universal waste pesticide handlers unless the receiving small quantity handler operates a universal waste pesticide collection program as defined in paragraph (2)(A)9. of this rule;

2. The phrase "or received from another handler" in 40 CFR 273.15(a) in regards to universal waste pesticides is not incorporated in this rule because in Missouri small quantity handlers of universal waste pesticides are prohibited from accepting universal waste pesticides from another handler*[. If a small quantity handler of universal waste pesticides operates a universal waste pesticide collection program as defined in section (2) of this rule, the handler shall comply with the accumulation time limits specified in the Department of Natural Resources' Standard Procedures for Pesticide Collection Programs in Missouri]* **without a universal waste pesticide collection program**;

3. In 40 CFR 273.18(a), with respect to universal waste pesticides, remove the phrase "another universal waste handler" and replace it with "*[a Missouri-certified resource recovery facility,]* a universal waste pesticide collection program";

4. Subsections 40 CFR 273.18(d) through (g) are not incorporated in this rule in regards to universal waste pesticides. In lieu of these subsections, the following requirements apply*[. If a]* **to the originating handler if a** shipment of universal waste pesticides is rejected by the *[Missouri-certified resource recovery facility or]* destination facility*[,]*: *[t]***T**he originating handler must either—

A. Receive the waste back when notified that the shipment has been rejected; or

B. Send the pesticides to another Missouri-certified resource recovery facility or to a destination facility which agrees to take the waste;

5. *(Reserved)*

6. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 273.20, as incorporated in this rule. The state may not assume authority from the Environmental Protection Agency (EPA) to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies.

(C) Standards for Large Quantity Handlers of Universal Wastes. In addition to the requirements in 40 CFR part 273 subpart C, the following regulations also apply:

1. In addition to the requirements of 40 CFR 273.31, a large quantity handler of universal waste is prohibited from accepting universal waste pesticides from other universal waste pesticide handlers unless the receiving large quantity handler operates a universal waste pesticide collection program as defined in paragraph (2)(A)9. of this rule;

2. A large quantity handler of universal waste who manages recalled universal waste pesticides as described in 40 CFR 273.3(a)(1) as modified by 10 CSR 25-16.273(2)(A)3. and who has sent notification to EPA as *[required]* **established** by 40 CFR part 165 is not required to notify EPA for those recalled universal waste pesticides under this section;

3. In addition to the requirements in 40 CFR 273.33, a large

quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or components of universal waste to the environment, as follows:

A. Ensure that a mercury clean-up system is readily available to immediately transfer any mercury-contaminated residue resulting from breakage, spills, or leaks into a container that meets the requirements of 40 CFR 262.34; and

B. Ensure that the area in which containers are stored is ventilated;

4. In addition to the requirements in 40 CFR 273.33, a large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or components of universal waste to the environment, as follows:

A. Ensure that a mercury clean-up system is readily available to immediately transfer any mercury-contaminated residue resulting from breakage, spills, or leaks into a container that meets the requirements of 40 CFR 262.34;

B. Ensure that the area in which containers are stored is ventilated; and

C. Ensure that employees handling universal waste lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of spillage or released material into appropriate containers;

5. In 40 CFR 273.35(a) and (b), the phrase "or received from another handler" is not incorporated in this rule in regards to universal waste pesticides because in Missouri large quantity handlers of universal waste pesticides are prohibited from accepting universal waste pesticides from another handler*[. If a large quantity handler of universal waste pesticides operates a universal waste pesticide collection program as defined in section (2) of this rule, the handler shall comply with the accumulation time limits specified in the Department of Natural Resources' Standard Procedures for Pesticide Collection Programs in Missouri]* **without a universal waste pesticide collection program**;

6. In 40 CFR 273.35(c)(1) through (c)(6), the phrases "or is received" and "or was received" are not incorporated in this rule in regards to universal waste pesticides because in Missouri large quantity handlers of universal waste pesticides are prohibited from accepting universal waste pesticides from another handler*[. If a large quantity handler of universal waste pesticides operates a universal waste pesticide collection program as defined in section (2) of this rule, the handler shall comply with the requirements for marking, labeling, and accumulation time limits that are specified in the Department of Natural Resources' Standard Procedures for Pesticide Collection Programs in Missouri]* **without a universal waste pesticide collection program**;

7. In 40 CFR 273.38(a), with respect to pesticide, remove the phrase "another universal waste handler" and replace it with "*[a Missouri-certified resource recovery facility,]* a universal waste pesticide collection program";

8. 40 CFR 273.38(d) through (f) are not incorporated in this rule with regards to universal waste pesticides. In lieu of these subsections, the following requirements apply*[. If]* **to the originating handler if** a shipment of universal waste pesticides from a large quantity generator is rejected by the *[Missouri-certified resource recovery facility or]* destination facility, the *[original]* **originating** handler must either—

A. Receive waste back when notified that the shipment has been rejected; or

B. Send the waste to another *[Missouri-certified resource recovery facility or to a]* destination facility which agrees to take the waste;

9. *(Reserved)***;**

10. 40 CFR 273.39(c)(1) is not incorporated in this rule in regards to universal waste pesticides because in Missouri large quantity handlers of universal waste pesticides are prohibited from receiving shipments of universal waste pesticides from another handler*[. If a large quantity handler of universal waste pesticides operates a universal waste pesticide collection program as defined in section (2) of this rule, the handler shall comply with the record retention requirements that are specified in the Department of Natural Resources' Standard Procedures for Pesticide Collection Programs in Missouri]* **without a universal waste pesticide collection program**;

11. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 273.40, as incorporated in this rule. The state may not assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies.

(D) Standards for Universal Waste Transporters.

1. In addition to the requirements set forth in 40 CFR part 273, subpart D, universal waste transporters shall—

A. Comply with all provisions of 10 CSR 25-6.263 if hazardous waste, as defined at 10 CSR 25-4.261 and not managed under the provisions of this rule, is transported in the state of Missouri;

B. Comply with the provisions of 10 CSR 25-6.263(2)(C) following a discharge of universal waste.

2. In addition to the prohibitions in 40 CFR 273.51(a) and (b), a transporter of universal waste pesticides is prohibited from delivering this waste to another universal waste handler except by delivery back to the original handler upon rejection of shipment by the *[Missouri-certified resource recovery facility or]* destination facility.

3. In 40 CFR 273.51(a) add the phrase "into the environment" after the phrase "prohibited from disposing of universal waste."

(E) Standards for Destination Facilities. In addition to the requirements in 40 CFR part 273 subpart E, the following regulations also apply:

1. A universal waste destination facility that is also a permitted or interim status hazardous waste storage, treatment, or disposal facility must manage all universal wastes in an area which is separate from the permitted area or the waste loses its identity as universal waste and must be managed in compliance with the facility's permit or interim status*[;]***.**

[2. A universal waste destination facility may be a Missouri-certified resource recovery facility if operating in compliance with the requirements for the universal waste in question and the standards of an R2 resource recovery facility as described in 10 CSR 25-9.020(3)(A)3.]

(F) *(Reserved)*

(G) In addition to the requirements in 40 CFR 273 subpart G, any person seeking to add a hazardous waste or a category of hazardous waste to this rule shall*[—*

*1. C]***c**omply with those provisions of section 536.041, RSMo, that describe a petition process to adopt, amend, or repeal any rule.

*AUTHORITY: section 260.370, RSMo [Supp. 2013] **2016**. Original rule filed June 1, 1998, effective Jan. 30, 1999. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission

will hold a public hearing on this rule action and others beginning at 10:00 a.m. on September 13, 2018, at the Elm Street Conference Center, 1730 East Elm Street, Jefferson City, Missouri. Any interested person will have the opportunity to testify. Advance notice is not required. However, anyone who wants to make arrangements to testify may do so prior to the hearing by contacting the secretary of the Hazardous Waste Management Commission at (573) 751-2747.

Any person may submit written comments on this rule action.l be sent to the director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO 65102-0176. To be accepted, written comments must be postmarked by midnight on September 20, 2018. Email comments shall be sent to tim.eiken@dnr.mo.gov. Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1730 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 3—Permits

PROPOSED AMENDMENT

10 CSR 60-3.010 Construction Authorization, Final Approval of Construction, Owner-Supervised Program, and Permit to Dispense Water. The department is amending section (1), removing language from (1)(A)3. and 4., amending (1)(B) and (C), amending (2)(B), removing language from (2)(B)1. and 2., incorporating a document by reference in (2)(B)2., and removing (2)(B)2.A., B., and C., amending (3)(A)2., (3)(A)3. and (3)(B), and creating section (4).

PURPOSE: The amendment provides a construction authorization exemption for public water systems for certain routine maintenance and repair; incorporates a document by reference; and clarifies the timeframe for a subdivision to apply for a permit to dispense.

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) Community Water System **and Subdivision** Requirements.

(A) Written Construction Authorization. A supplier of water *[which operates a community water system]* must obtain written authorization from the department prior to construction, alteration**,** or extension of any community water system **or a water system serving a subdivision**, unless the project will be constructed under the provisions of 10 CSR 60-10.010(2)(C)2.*[, and, for community water systems commencing operation after October 1, 1999, must comply with the requirements of 10 CSR 60-3.020 and 10 CSR 60-3.030]* **or the project is exempt as specified in 10 CSR 60-3.010(4)**.

1. Two (2) copies of predesign studies pertaining to the project must be submitted to the department before plans and specifications for new water systems or for significant changes to existing water systems are reviewed for approval.

2. Construction authorization shall be requested by submitting written application and two (2) copies of the plans and specifications, as outlined in 10 CSR 60-10.010(2), for the proposed project to the department for review and approval.

3. Preparation of engineering reports, plans**,** and specifications *[for community water systems]* and inspection of construction for the purpose of assuring compliance with drawings and specifications must be done by an engineer as defined by 10 CSR 60-2.015(2)(E)2.

4. A construction authorization shall be valid for a period of two (2) years from the date of authorization **provided construction commences within the two (2) year timeframe**. *[If construction is not commenced within two (2) years from the date of authorization, a new construction authorization must be obtained from the department.]*

(B) Final Construction Approval. Final construction approval must be obtained from the department for all projects for which *[approval is required]* **construction authorization was issued,** before that project is placed into service. A supplier of water which operates a community water system need not obtain construction approval for projects constructed under the provisions of 10 CSR 60-10.010(2)*[(C)2.]***(B).**

(C) Supervised Construction Program. A supplier of water which operates a community water system may establish a supervised construction program as specified in 10 CSR 60-10.010(2)*[(C)2.]***(B).**

(2) Noncommunity Water System Requirements.

(B) Construction Authorization. Each noncommunity supplier of water must notify the department, in advance, of the intent to construct a new or expand an existing water system **unless the project is exempt as specified in 10 CSR 60-3.010(4)**.

1. Noncommunity water systems *[utilizing surface or ground water under the direct influence of surface water and nontransient noncommunity water systems]* must obtain written authorization from the department prior to construction, alteration**,** or extension of the system *[and must comply with 10 CSR 60-3.020 and 10 CSR 60-3.030]*.

2. *[Transient n]***N**oncommunity water systems utilizing groundwater*[—]* **shall be constructed in accordance with the department's *"Standards for Non-Community Public Water Supplies, 1982,"* document published by the Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176, dated 1982 which is hereby incorporated by reference without any later amendments or additions.**

[A. May be required, at the discretion of the department, to submit plans and specifications for approval;

B. Shall be constructed in accordance with the department's "Standards for Non-Community Public Water Supplies, 1982"; and

C. Must file with the department, within sixty (60) days of completion, a record of construction for all new or modified wells on forms provided by the department.]

(3) Permits to Dispense Water.

(A) Applicability.

1. A water supply meeting all the following conditions is not considered a public water system and as such, is not required to have a permit to dispense if that water supply:

A. Consists only of distribution and storage facilities;

B. Obtains all of its water from, but is not owned or operated by a public water system to which the regulations apply;

C. Does not sell water to any person; and

D. Is not a carrier which conveys passengers in interstate commerce.

2. Water systems serving subdivisions *[as defined in 10 CSR 60-2.015(2)(S)8.]* are public water systems **unless each lot or tract is supplied by a private well with no interconnections to a distribution system** and must have a permit to dispense water **when serving the thresholds established for community and noncommunity public water systems**.

3. Community and noncommunity water systems except as exempted in paragraph (3)(A)1. **and 2.** of this rule must have a permit to dispense water.

(B) Modification or Revocation of a Permit to Dispense. The department may modify or revoke a permit to dispense water, subject to the appeal provisions of section 640.*[130]***115**.5*[.]*, RSMo, upon a finding that any of the following have occurred:

1. The holder of a permit ceases to function as a public water supply;

2. The holder of a permit fails to correct an operating deficiency or comply with these regulations within a reasonable time after receipt of notice from the department;

3. The department determines that an emergency condition exists in a water supply which endangers, or could be expected to endanger, the health of a person(s) consuming affected water;

4. The public water system changes ownership and the continuing operating authority, as defined in 10 CSR 60-3.020, fails to meet the requirements of 10 CSR 60-3.020; or

5. For community water systems and nontransient noncommunity water systems against which an administrative order has been issued for significant noncompliance with the federal or state drinking water law or regulations, the water system fails to show that a permanent organization exists that serves as the continuing operating authority and that the continuing operating authority has the necessary technical, managerial, and financial capability for the management, operation, replacement, maintenance, and modernization of the public water system, or the water system is not making substantial progress toward compliance. The continuing operating authority may reapply for a permit to dispense when the compliance issues are resolved.

(4) Construction Authorization Exemptions.

(A) The following types of projects are exempt from obtaining construction authorization prior to construction:

1. Repair of water main leaks and breaks with the same size and type of pipe;

2. Replacement of a well pump of the same type, horsepower, pump rate, and elevation;

3. Replacement of a bladder tank with a storage capacity of less than one hundred twenty (120) gallons with the same size bladder tank;

4. Painting of a storage tank with paint approved by the National Sanitation Foundation/American National Standards Institute (NSF/ANSI);

5. Internal plumbing and piping replacement within a water system treatment facility;

6. Replacement of a fire hydrant with a hydrant of the same size, type, and flow rate; and/or

7. Subdivisions where each lot or tract is supplied by a private well with no interconnections to a distribution system.

*AUTHORITY: sections 640.100 and 640.115, RSMo [Supp. 1998] **2016**. Original rule filed May 4, 1979, effective Sept. 14, 1979. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 3—Permits

PROPOSED AMENDMENT

10 CSR 60-3.020 Continuing Operating Authority. The department is amending (4)(A)2. and 3., amending (4)(B) and (4)(B)1., and correcting a citation in (6)(A)3.C.III.

PURPOSE: Evaluate proposed amendments in response to Executive Order 17-03, correct regulation citations, and corrects the term "operation."

(4) Permit Review Upon Change in Ownership.

(A) Prior to a change of continuing operating authority, the current continuing operating authority shall notify the department of the pending change at least ninety (90) calendar days prior to ownership transfer. The department will perform a permit review within forty-five (45) calendar days of notice of the ownership transfer to assess the following:

1. The proposed continuing operating authority meets the continuing operating authority requirements of this rule;

2. The public water system is in compliance with applicable maximum contaminant levels and monitoring requirements of *[10 CSR 60-4.010 through 10 CSR 60-4.110]* **10 CSR 60-4**; and

3. The public water system is in compliance with the minimum positive pressure requirement of 10 CSR 60-4.080*[(9)]***(8)**.

(B) The permit to dispense water shall continue in effect until the department takes an action to issue a permit to the proposed new continuing operating authority *[under subparagraphs (3)(C) 2.A. or B. of this rule]* or to deny the permit to the proposed new continuing operating authority *[under subparagraph (3)(C)2.C. of this rule.]* **based on the following criteria:**

1. If the review shows that the proposed continuing operating authority and public water system meet all requirements in subsection (4)(A), the department will issue a new permit to dispense when ownership transfer is complete showing the new owner as the continuing *[operation]* **operating** authority responsible for the management, operation, replacement, maintenance**,** and modernization of the public water system in compliance with the Missouri Safe Drinking Water Law and rules*[.]***;**

2. If the review shows the new continuing operating authority meets the requirement in paragraph (4)(A)1., but the public water system does not meet the requirements in paragraphs (4)(A)2. and 3., the department will negotiate an agreement with the proposed continuing operating authority for achieving compliance with these requirements. Upon completion of the agreement and when ownership transfer is complete, the department will issue a new permit to dispense water to the new continuing operating authority*[.]***; and**

3. If the review shows the proposed continuing operating authority does not meet the requirement in paragraph (4)(A)1., the permit to dispense water will be denied.

(6) Continuing Operating Authorities.

(A) Continuing operating authorities to whom the department will issue written construction authorizations under section (3) of this rule and permits to dispense water are listed here in preferential order. An applicant proposing a facility within the legal boundaries of an existing higher preference continuing operating authority may utilize a lower preference continuing operating authority by submitting, as part of the application, documentation that water service is not available from each existing higher preference continuing operating authority, or a statement from each existing higher preference continuing operating authority waiving its preferential status.

1. Municipality, public water supply district, and water system regulated by the Missouri Public Service Commission (PSC). (Note: Written construction authorizations and permits to dispense water

will not be issued to a continuing operating authority regulated by the PSC until the continuing operating authority has obtained a certificate of convenience and necessity from the PSC.)

2. Any person showing complete control over and responsibility for the public water system and all property served by it.

3. Any incorporated association of property owners served by a public water system provided that—

A. The incorporated association owns the facility and has authority to lay all necessary water lines;

B. All property owners within the boundaries of the association have adopted covenants covering the land of each property owner, which assure connection to the system when it is available and compliance with the bylaws and rules of the association;

C. The bylaws of the association, or other appropriate documents, provide for the proper management, operation, replacement, maintenance, and modernization of the facility including at a minimum:

(I) The power to regulate the use of the facility;

(II) The power to levy assessments on its members and enforce these assessments on each owner; and

(III) The power to convey the facility to one (1) of the continuing operating authorities listed in subsection *[(5)(A)]* **(6)(A)** of this rule;

D. The documents establishing the continuing operating authority and the covenants called for in subparagraph (6)(A)3.B. of this rule shall be properly recorded with the recorder of deeds in the county or counties where the land within the boundaries of the association lies and a certified copy of the recorded document shall be provided to the department. Additionally, a current title search certified by a title insurance company authorized to do business in Missouri showing the owners of record of all real estate within the boundaries of the association and all lienholders must be provided to the department; all lienholders must subordinate their interest to the covenants; and

E. The association is incorporated as a corporation under the laws of the state of Missouri and a current Certificate of Good Standing from the Missouri secretary of state and a certified copy of the Articles of Incorporation are provided to the department.

*AUTHORITY: sections 640.100 and 640.115, RSMo [Supp. 1998] **2016** Emergency rule filed Sept. 20, 1999, effective Sept. 30, 1999, expired March 27, 2000. Original rule filed July 1, 1999, effective March 30, 2000. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 3—Permits

PROPOSED AMENDMENT

10 CSR 60-3.030 Technical, Managerial, and Financial Capacity. The department is amending the purpose statement, removing (2)(D), amending (3)(A)2. and 3., amending (3)(B)1., and removing (4).

PURPOSE: Proposed amendments to this rule were identified during the Red Tape Reduction rule review as duplicative language or over burdensome to the regulated community, the purpose statement is also being amended to remove a reference to the recommendations in the regulation.

PURPOSE: This rule establishes minimum technical, managerial, and financial capacity requirements for community and nontransient noncommunity water systems commencing operation after October 1, 1999. [The rule also includes technical and financial capacity recommendations.]

(2) General Requirements.

[(D) Community and nontransient noncommunity water systems subject to this rule shall consider and plan for the potential impact of future regulations on their technical, managerial and financial capacity.]

(3) Minimum Technical, Managerial, and Financial Capacity Requirements.

(A) Minimum Technical Capacity Requirements.

1. All community water systems subject to this rule must conform to *[the department's "Standards for Community Public Water Supplies."]* **construction requirements in 10 CSR 60-10.010.**

2. All nontransient noncommunity water systems subject to this rule must conform to *[the department's "Standards for Non-Community Public Water Supplies."]* **construction requirements in 10 CSR 60-3.010(2).**

3. All public water systems subject to this rule shall have a sufficient number of operators certified **and equipped** as required in 10 CSR 60-14 to provide proper operation and maintenance of all source, treatment, storage, and distribution facilities so that the public water system meets all requirements of sections 640.100-640.140, RSMo and regulations promulgated thereunder. *[These operators shall be properly trained and be provided all equipment needed, including safety equipment, to perform all tasks in their job duties.]*

4. All public water systems subject to this rule shall have and maintain an updated distribution system map showing, at a minimum, the size and location of all waterlines, valves, hydrants, storage facilities, pumping facilities, treatment facilities, and water sources and shall make the map available to the department on request.

(B) Minimum Managerial Capacity Requirements.

[1. Community and nontransient noncommunity water systems subject to this rule shall have an organization chart that shows every position that provides any drinking water function with the position title, name, business address, and telephone number of the person filling that position. This chart shall show clear lines of authority and supervision. Elected officials and managers that have overall jurisdiction shall also be shown on this chart. The chart shall state the name(s) of the persons or legal entity who own the public water system along with the business address and telephone number of the owner(s). This chart shall be publicly displayed and shall be updated within thirty (30) calendar days of any changes. An updated copy of the organization chart shall be made available to the department.]

1. Community and nontransient noncommunity water systems subject to this rule shall maintain a list that shows position titles, names, business addresses, and telephone numbers of individuals that provide drinking water functions, including the person(s) or legal entity who owns the public water system. An updated copy of the list shall be made available to the department.

2. Community and nontransient noncommunity water systems subject to this rule shall designate a person or persons who will receive customer complaints and shall have a written procedure for receiving, investigating, resolving, and recording customer complaints. The name, title, business address, business telephone number**,** and office hours of the person(s) designated to receive complaints shall be publicly displayed, along with the written complaint procedure. Complaint records shall be kept for a minimum of five (5) years and shall be made available to the department upon request. Results of investigations shall be used as part of the planning process for future improvements.

3. Community and nontransient noncommunity water systems subject to this rule shall have a written rate structure and service fees, and the rate structure and service fees shall be publicly displayed and shall be made available to the department upon request.

4. Community and nontransient noncommunity water systems subject to this rule shall hold at least one (1) public meeting prior to changing the rate structure or service fees and shall notify the customers in advance of the public meeting by posting notice in the principal business office and providing notice in the area served, unless the rate increase procedure is regulated by other state or federal regulations. Records of customers' notice and summary of the public meeting shall be kept for a minimum of five (5) years and shall be made available to the department upon request.

5. Community and nontransient noncommunity water systems subject to this rule shall designate a person to deal with compliance-related issues in accordance with the public drinking water regulations in 10 CSR 60, including reporting and public notice requirements. This person shall be trained in public drinking water regulation requirements and shall act as liaison with the department on drinking water issues. The department will refer compliance actions to this person. The name, position title, business address, business telephone number, and office hours for this person shall be made available to the department and the department shall be notified within thirty (30) calendar days of any change.

[(4) Recommendations. This section includes recommendations for further enhancing managerial and financial capacity. These recommendations will not be used to determine if minimum regulatory requirements are met for issuance of permits to dispense water.

(A) Managerial capacity recommendations include the following:

1. All public water systems should designate a person to be liaison with other public water systems and officials of entities that may impact drinking water systems. This person should be trained in water resource planning and general public drinking water system issues; and

2. All public water systems should have management with sufficient expertise to ensure that all public drinking water facilities are properly operated, maintained and in compliance with department regulations; improvements needed for future population and commercial growth are properly planned and that these plans are financed and executed; all personnel providing drinking water functions continue to be trained to achieve professional expertise in their field; the personnel are organized and motivated to provide good customer service, good interaction with the department and other regulatory agencies, good interaction with other regional water systems and water users including participating in long-term strategic planning for management of regional water resources; and that the supply finances are fiscally sound.

(B) Financial capacity recommendations include the following:

1. Revenues from drinking water sales should cover all public water system costs for the system including operating costs, maintenance costs, debt service costs, operating reserves, debt reserves, emergency equipment replacement reserves, and revenue collection costs. Capital improvement funding for facilities needed for upgrading the existing system should come from revenue from water sales or other sources of capital. Rates should be set accordingly;

2. New connection fees, development fees, and other funding sources should cover all public water supply capital improvements costs for facilities needed for expanding the system for new customers. Fees should be set accordingly; and

3. All drinking water generated revenues should be used for drinking water purposes. For public water systems owned by entities that provide other services in addition to drinking water, drinking water purposes should include equitable share of administrative costs for the entire entity.]

*AUTHORITY: sections 640.100 and 640.115, RSMo [Supp. 1998] **2016**. Emergency rule filed Sept. 20, 1999, effective Sept. 30, 1999, expired March 27, 2000. Original rule filed July 1, 1999, effective March 30, 2000. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.022 Revised Total Coliform Rule. The department is removing language from the purpose statement, deleting language in (1)(C), with renumbering thereafter, amending sections (3), (4), (5), (6), (7), (8), (10), and (11).

PURPOSE: The amendment will remove sunset language due to the rescission of 10 CSR 60-4.020, amend the purpose, and correct a citation related to 10 CSR 60-7.010.

PURPOSE: The rule establishes sampling and monitoring requirements for public water systems. The rule also establishes a maximum contaminant level (MCL) for E. coli and uses E. coli and total coliforms to initiate a "find and fix" approach to address fecal contamination that could enter into the distribution system. It requires public water systems to perform assessments to identify sanitary defects and subsequently take corrective action to correct them. The rule sets monitoring and treatment technique requirements for seasonal systems. [At the beginning of each operating period, before serving water to the public, seasonal systems meeting criteria must conduct state-approved start-up procedures and certify completion of start-up procedures.] The rule is based on the requirements in the federal Revised Total Coliform Rule found in subpart Y of 40 CFR part 141.

(1) General Requirements and Applicability.

[(C) Compliance date. Systems must comply with the provisions of this rule beginning April 1, 2016, unless otherwise specified in this rule].

*[(D)]***(C)** Violations of national primary drinking water regulations. Failure to comply with the applicable requirements of this rule, including requirements established by the department pursuant to these provisions, is a violation of the National Primary Drinking Water Regulations.

(3) General monitoring requirements for all public water systems.

(A) Sample siting plans.

1. Systems must develop a written sample siting plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system *[no later than March 31, 2016]*. These plans are subject to department review and revision. Systems must collect total coliform samples according to the written sample siting plan. Monitoring required by sections (4)–(8) of this rule may take place at a customer's premise, dedicated sampling station, or other designated compliance sampling location. Routine and repeat sample sites and any sampling points necessary to meet the requirements of 10 CSR 60-4.025 must be reflected in the sampling plan.

2. The minimum monitoring frequency for total coliforms is based on the population served by the system as defined in the chart in section (7) of this rule except that systems using surface water or ground water under the direct influence of surface water or systems practicing iron removal or lime softening must collect at least five (5) samples per month. Unless the department approves or specifies in writing of a lesser frequency based on population and system type as defined in sections (4)–(7) of this rule, systems must monitor each calendar month that the system provides water to the public **and determine compliance with the MCL in subsection (10)(A) of this rule for each month in which it is required to monitor**. Systems must collect samples at regular time intervals throughout the month, except that systems that use only ground water and serve four thousand nine hundred (4,900) or fewer people may collect all required samples on a single day if they are taken from different sites.

3. Systems must take at least the minimum number of required samples even if the system has had an *E. coli* maximum contaminant level (MCL) violation or has exceeded the coliform treatment technique triggers in subsection (9)(A) of this rule.

4. A system may conduct more compliance monitoring than is required by this rule to investigate potential problems in the distribution system and use monitoring as a tool to assist in uncovering problems. A system may take more than the minimum number of required routine samples and must include the results in calculating whether the coliform treatment technique trigger in subparagraphs (9)(A)1.A.–B. of this rule has been exceeded only if the samples are taken in accordance with the existing sample siting plan and are representative of water throughout the distribution system.

5. Systems must identify repeat monitoring locations in the sample siting plan. Unless the provisions of subparagraphs (3)(A)5.A. or B. of this rule are met, the system must collect at least one (1) repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one (1) repeat sample at a tap within five (5) service connections upstream and at least one (1) repeat sample at a tap within five (5) service connections downstream of the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one (1) service connection away from the end of the distribution system, the system must still take all required repeat samples. However, the department may allow an alternative sampling location instead of the requirement to collect at least one (1) repeat sample upstream or downstream of the original sampling site. Except as provided for in subparagraph (3)(A)5.B. of this rule, systems required to conduct triggered source water monitoring under 10 CSR 60–4.025(3)(A) must take ground water source sample(s) in addition to repeat samples required under this rule.

A. Systems may propose repeat monitoring locations to the department that the system believes to be representative of a pathway for contamination of the distribution system. A system may elect to specify either alternative fixed locations or criteria for selecting repeat sampling sites on a situational basis in a standard operating procedure (SOP) in its sample siting plan. The system must design its SOP to focus the repeat samples at locations that best verify and determine the extent of potential contamination of the distribution system area based on specific situations. The department may modify the SOP or require alternative monitoring locations as needed.

B. Ground water systems serving one thousand (1,000) or fewer people may propose repeat sampling locations to the department that differentiate potential source water and distribution system contamination (e.g., by sampling at entry points to the distribution system). A ground water system with a single well required to conduct triggered source water monitoring may, with written department approval, take one (1) of its repeat samples at the monitoring location required for triggered source water monitoring under 10 CSR 60-4.025(3)(A) if the system demonstrates to the department's satisfaction that the sample siting plan remains representative of water quality in the distribution system. If approved by the department, the system may use that sample result to meet the monitoring requirements in both 10 CSR 60-4.025(3)(A) and this section.

(I) If a repeat sample taken at the monitoring location required for triggered source water monitoring is *E. coli*-positive, the system has violated the *E. coli* MCL and must also comply with 10 CSR 60-4.025(3)(A)3. If a system takes more than one (1) repeat sample at the monitoring location required for triggered source water monitoring, the system may reduce the number of additional source water samples required under 10 CSR 60-4.025(3)(A)3. by the number of repeat samples taken at that location that were not *E. coli*-positive.

(II) If a system takes more than one (1) repeat sample at the monitoring location required for triggered source water monitoring under 10 CSR 60-4.025(3)(A) and more than one (1) repeat sample is *E. coli*-positive, the system has violated the *E. coli* MCL and must also comply with 10 CSR 60-4.025(4)(A)1.

(III) If all repeat samples taken at the monitoring location required for triggered source water monitoring are *E. coli*-negative and a repeat sample taken at a monitoring location other than the one required for triggered source water monitoring is *E. coli*-positive, the system has violated the *E. coli* MCL, but is not required to comply with 10 CSR 60-4.025(3)(A)3.

6. The department may review, revise, and approve, as appropriate, repeat sampling proposed by systems under subparagraphs (3)(A)5.A.–B. of this rule. The system must demonstrate that the sample siting plan remains representative of the water quality in the distribution system. The department may determine that monitoring at the entry point to the distribution system (especially for undisinfected ground water systems) is effective to differentiate between potential source water and distribution system problems.

(4) Routine monitoring requirements for non*[-]*community water systems serving one thousand (1,000) or fewer people using only ground water.

(A) General monitoring requirements.

1. The provisions of this section apply to non*[-]*community water systems using only ground water (except ground water under the direct influence of surface water, as defined in 10 CSR 60-2.015) and serving one thousand (1,000) or fewer people.

2. Following any total coliform-positive sample taken under the provisions of this section, systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in section (8) of this rule.

3. Once all monitoring required by this section and section (8) of this rule for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified

in section (9) of this rule have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by section (9) of this rule.

4. For the purpose of determining eligibility for remaining on or qualifying for quarterly monitoring under the provisions of paragraphs (4)(F)4. and (4)(G)2., respectively, of this rule for transient non*[-]*community water systems, the department may elect to not count monitoring violations under paragraph (10)(C)1. of this rule if the missed sample is collected no later than the end of the monitoring period following the monitoring period in which the sample was missed. The system must collect the make-up sample in a different week than the routine sample for that monitoring period and should collect the sample as soon as possible during the monitoring period. The department may not use this provision under subsection (H) of this section. This authority does not affect the provisions of paragraph (10)(C)1. of this rule and 10 CSR 60-7.010*[(12)]***(11)**(D).

(B) Monitoring frequency for total coliforms. Unless the department approves of a lesser frequency in writing **and the system meets criteria provided under subsections (4)(C) through (4)(H) and (4)(J) of this rule**, the minimum monitoring frequency for total coliforms is one (1) sample per month except that systems practicing iron removal or lime softening must collect at least five (5) routine samples per month. In addition, the department may require a greater frequency if necessary. Seasonal systems must meet the monitoring requirements of subsection (4)(I) of this rule. *[With written department approval, systems must monitor each calendar quarter that the system provides water to the public, except for seasonal systems or as provided under subsections (4)(C)-(H) and (4)(J) of this rule.]*

(C) Transition to the Revised Total Coliform Rule.

[1. Systems, including seasonal systems, must continue to monitor according to the total coliform monitoring schedules under 10 CSR 60-4.020 that were in effect on March 31, 2016, unless any of the conditions for increased monitoring in subsection (4)(F) of this rule are triggered on or after April 1, 2016, or unless otherwise directed by the department.]

*[2. Beginning April 1, 2016, t]***T**he department will perform a special monitoring evaluation during each sanitary survey to review the status of the system, including the distribution system, to determine whether the system is on an appropriate monitoring schedule. After the department has performed the special monitoring evaluation during each sanitary survey, the department may modify the system's monitoring schedule, as necessary, or it may allow the system to stay on its existing monitoring schedule, consistent with the provisions of this section (4). The department may not allow systems to begin less frequent monitoring under the special monitoring evaluation unless the system has already met the applicable criteria for less frequent monitoring in this section. For seasonal systems on quarterly or annual monitoring, this evaluation must include review of the approved sample siting plan, which must designate the time period(s) for monitoring based on site-specific considerations (e.g., during periods of highest demand or highest vulnerability to contamination). The seasonal system must collect compliance samples during these time periods.

(D) Annual site visits. *[Beginning no later than calendar year 2017, s]***S**ystems on annual monitoring, including seasonal systems, must have an initial and recurring annual site visit by the department that is equivalent to a Level 2 assessment or an annual voluntary Level 2 assessment that meets the criteria in subsection (9)(B) to remain on annual monitoring. The periodic required sanitary survey may be used to meet the requirement for an annual site visit for the year in which the sanitary survey was completed.

(E) Criteria for annual monitoring. *[Beginning April 1, 2016, t]***T**he department may reduce the monitoring frequency for a well-operated ground water system from quarterly routine monitoring to no less than annual monitoring, if the system demonstrates that it meets the criteria for reduced monitoring in paragraphs (4)(E)1.-3. of this rule, except for a system that has been on increased monitoring under the provisions of subsection (4)(F) of this rule. A system on increased monitoring under subsection (4)(F) of this rule must meet the provisions of subsection (4)(G) of this rule to go to quarterly monitoring and must meet the provisions of subsection (4)(H) of this rule to go to annual monitoring.

1. The system has a clean compliance history for a minimum of twelve (12) months*[;]***.**

2. The most recent sanitary survey shows that the system is free of sanitary defects or has corrected all identified sanitary defects, has a protected water source, and meets approved construction standards*[; and]***.**

3. The department has conducted an annual site visit within the last twelve (12) months, and the system has corrected all identified sanitary defects. The system may substitute a Level 2 assessment that meets the criteria in subsection (9)(B) of this rule for the department annual site visit.

(I) Seasonal systems.

1. *[Beginning April 1, 2016, a]***A**ll seasonal systems must demonstrate completion of a department-approved start-up procedure, which may include a requirement for startup sampling prior to serving water to the public.

2. A seasonal system must monitor every month that it is in operation unless it meets the criteria in subparagraphs (4)(I)2.A.–C. of this rule to be eligible for monitoring less frequently than monthly *[beginning April 1, 2016]*, except as provided under subsection (4)(C) of this rule.

A. Seasonal systems monitoring less frequently than monthly must have an approved sample siting plan that designates the time period for monitoring based on site-specific considerations (e.g., during periods of highest demand or highest vulnerability to contamination). Seasonal systems must collect compliance samples during this time period.

B. To be eligible for quarterly monitoring, the system must meet the criteria in subsection (4)(G) of this section.

C. To be eligible for annual monitoring, the system must meet the criteria under subsection (4)(H) of this rule.

3. The department may exempt any seasonal system from some or all of the requirements for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating, except that systems that monitor less frequently than monthly must still monitor during the vulnerable period designated by the department.

(5) Routine monitoring requirements for community water systems serving one thousand (1,000) or fewer people using only ground water.

(C) Transition to the Revised Total Coliform Rule.

1. **Unless any of the conditions in subsection (5)(E) of this rule are triggered, or unless otherwise directed by the department,** *[A]***a**ll systems must continue to monitor according to the total coliform monitoring schedules under *[10 CSR 60-4.020 that were in effect on March 31, 2016, unless any of the conditions in subsection (5)(E) of this rule are triggered on or after April 1, 2016, or unless otherwise directed by the department.]* **the Environmental Protection Agency's *Code of Federal Regulations*, 40 CFR 141.21, published February 13, 2013. This document is incorporated by reference without any later amendments 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.**

2. *[Beginning April 1, 2016, t]***T**he department must perform a special monitoring evaluation during each sanitary survey to review the status of the system, including the distribution system, to determine whether the system is on an appropriate monitoring schedule. After the department has performed the special monitoring evaluation during each sanitary survey, the department may modify the system's monitoring schedule, as necessary, or it may allow the system

to stay on its existing monitoring schedule, consistent with the provisions of this section. The department may not allow systems to begin less frequent monitoring under the special monitoring evaluation unless the system has already met the applicable criteria for less frequent monitoring in this section.

(6) Routine monitoring requirements for surface water and ground water under the direct influence of surface water public water systems serving one thousand (1,000) or fewer people.

(A) General Routine Monitoring.

1. This section (6) applies to surface water and ground water under the direct influence of surface water systems serving one thousand (1,000) or fewer people.

2. Following any total coliform-positive sample taken under the provisions of this section (6), systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in section (8) of this rule.

3. Once all monitoring required by this section (6) and section (8) of this rule for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in section (9) have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by section (9) of this rule.

4. Seasonal systems.

A. *[Beginning April 1, 2016, a]***A**ll seasonal systems must demonstrate completion of a department-approved start-up procedure, which may include a requirement for start-up sampling prior to serving water to the public.

B. The department may exempt any seasonal system from some or all of the requirements for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating.

(7) Routine monitoring requirements for public water systems serving more than one thousand (1,000) people.

(A) General Routine Monitoring.

1. The provisions of this section apply to public water systems serving more than one thousand (1,000) people.

2. Following any total coliform-positive sample taken under the provisions of this section, systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in section (8) of this rule.

3. Once all monitoring required by this section and section (8) of this rule for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in section (9) of this rule have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by section (9) of this rule.

4. Seasonal systems.

A. *[Beginning April 1, 2016, a]***A**ll seasonal systems must demonstrate completion of a department-approved start-up procedure, which may include a requirement for start-up sampling prior to serving water to the public.

B. The department may exempt any seasonal system from some or all of the requirements for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating.

(C) Reduced monitoring. Systems may not reduce monitoring, except for non*[-]*community water systems using only ground water (and not ground water under the direct influence of surface water) serving one thousand (1,000) or fewer people in some months and more than one thousand (1,000) people in other months. In months when more than one thousand (1,000) people are served, the systems must monitor at the frequency specified in subsection (7)(B) of this rule. In months when one thousand (1,000) or fewer people are served, the department may reduce the monitoring frequency, in writing, to a frequency allowed under section (4) of this rule for a similarly situated system that always serves one thousand (1,000) or fewer people, taking into account the provisions in subsection *[(7)]***(4)**(E)–(G) of this rule.

(8) Repeat monitoring and *E. coli* requirements.

(B) *Escherichia coli (E. coli)* testing.

1. If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if *E. coli* are present. If *E. coli* are present, the system must notify the department by the end of the day when the system is notified of the test result, unless the system is notified of the result after the department office is closed and the department does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the department before the end of the next business day.

2. The department has the discretion to allow a system, on a case-by-case basis, to forgo *E. coli* testing on a total coliform-positive sample if that system assumes that the total coliform-positive sample is *E. coli*-positive. Accordingly, the system must notify the department as specified in paragraph (8)(B)1. of this rule and the provisions of *[10 CSR 60-4.020(7)(C) apply.]* **the Environmental Protection Agency's Code of Federal Regulations, 40 CFR 141.63(c), published February 13, 2013. This document is incorporated by reference without any later amendments 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.**

(10) Violations.

(A) *E. coli* **Maximum Contaminant Level (**MCL**)** Violation. A system is in violation of the MCL for *E. coli* when any of the conditions identified in paragraphs (10)(A)1.-4. of this rule occur. **For purposes of the public notification requirements in 10 CSR 60-8.010, violation of the MCL for *E. coli* may pose an acute risk to health.**

1. The system has an *E. coli*-positive repeat sample following a total coliform-positive routine sample.

2. The system has a total coliform-positive repeat sample following an *E. coli*-positive routine sample.

3. The system fails to take all required repeat samples following an *E. coli*-positive routine sample.

4. The system fails to test for *E. coli* when any repeat sample tests positive for total coliform.

(11) Reporting Requirements. Reporting requirements are in section *[(12)]* **(11)** of 10 CSR 60-7.010 Reporting Requirements.

*AUTHORITY: section 640.100, RSMo [Supp. 2014] **2016**. Original rule filed Aug. 12, 2015, effective March 30, 2016. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.025 Ground Water Rule Monitoring and Treatment Technique Requirements. The department is removing sunset language in this rule with renumbering thereafter, incorporating a document by reference in (3)(C)2., and citations to other chapters have been amended due to concurrent rule changes.

PURPOSE: This amendment removes sunset language due to the rescission of l0 CSR 60-4.020 Total Coliform Rule and updates citations to other regulations due to concurrent rulemaking amendments.

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.

(3) Ground Water Source Microbial Monitoring.

(A) Triggered Source Water Monitoring.

1. General requirements. A ground water system must conduct triggered source water monitoring if the following conditions exist:

A. The system does not provide at least 4-log treatment of viruses (using inactivation, removal, or a state-approved combination of 4-log virus inactivation and removal) before or at the first customer for each ground water source; and *[either]*

[B. The system is notified that a sample collected under 10 CSR 60-4.020(1) is total coliform-positive and the sample is not invalidated under 10 CSR 60-4.020(3) until March 31, 2016; or]

*[C.]***B.** The system is notified that a sample collected under 10 CSR 60-4.022(4)-(7) is total coliform-positive and the sample is not invalidated under 10 CSR 60-4.022(3)(C)*[, beginning April 1, 2016]*.

2. Sampling requirements. A ground water system must collect, within twenty-four (24) hours of notification of the total coliform-positive sample, at least one (1) ground water source sample from each ground water source in use at the time the total coliform-positive sample was collected under *[10 CSR 60-4.020(1), until March 31, 2016, or collected under]* 10 CSR 60-4.022(4)-(7) *[beginning April 1, 2016,]* except as provided in subparagraph (3)(A)2.B. of this rule.

A. The department may extend the twenty-four (24) hour time limit on a case-by-case basis if the system cannot collect the ground water source water sample within twenty-four (24) hours due to circumstances beyond its control. In the case of an extension, the department will specify how much time the system has to collect the sample.

B. If approved by the department, systems with more than one (1) ground water source may meet the requirements of this subparagraph by sampling a representative ground water source or sources. If directed by the department, systems must submit for department approval a triggered source water monitoring plan that identifies one (1) or more ground water sources that are representative of each monitoring site in the system's sample siting plan under *[10 CSR 60-4.020(1) until March 31, 2016, or under]* 10 CSR 60-4.022(3) *[beginning April 1, 2016,]* and that the system intends to use for representative sampling for triggered source water monitoring.

[C. Until March 31, 2016, a ground water system serving one thousand (1,000) people or fewer may use a repeat sample collected from a ground water source to meet both the requirements of 10 CSR 60-4.020(2) and to satisfy the monitoring requirements of this section (3) for that ground water source only if the department approves the use of E. coli as a fecal indicator for source water monitoring under this subsection (3)(A). If the repeat sample collected from the ground water source is E. coli positive, the system must comply with the additional requirements in paragraph (3)(A)3. of this rule.]

*[D.]***C.** *[Beginning April 1, 2016, a]***A** ground water system serving one thousand (1,000) or fewer people may use a repeat sample collected from a ground water source to meet both the requirements of 10 CSR 60-4.022 and to satisfy the monitoring requirements of paragraph (3)(A)2. of this rule for that ground water source only if the department approves the use of *E. coli* as a fecal indicator for source water monitoring under this subsection (3)(A) and approves the use of a single sample for meeting both the triggered source water monitoring requirements in this subsection (3)(A) and the repeat monitoring requirements in 10 CSR 60-4.022(8). If the repeat sample collected from the ground water source is *E. coli* positive, the system must comply with paragraph (3)(A)3. of this rule.

3. Additional requirements. If the department does not require corrective action under paragraph (4)(A)2. of this rule for a fecal indicator-positive source water sample collected under paragraph (3)(A)2. of this rule that is not invalidated under subsection (3)(D) of this rule, the system must collect five (5) additional source water samples from the same source within twenty-four (24) hours of being notified of the fecal indicator-positive sample.

4. Consecutive systems. In addition to the other requirements of this subsection (3)(A), a consecutive ground water system that has a total coliform-positive sample collected under *[10 CSR 60-4.020(1) until March 31, 2016, or under]* 10 CSR 60-4.022(4)-(7) *[beginning April 1, 2016,]* must notify the wholesale system(s) within twenty-four (24) hours of being notified of the total coliform-positive sample.

5. Wholesale systems. In addition to the other requirements of this subsection (3)(A), a wholesale ground water system that receives notice from a consecutive system it serves that a sample collected under *[10 CSR 60-4.020(1) until March 31, 2016, or collected under]* 10 CSR 60-4.022(4)-(7) *[beginning April 1, 2016,]* is total coliform-positive must, within twenty-four (24) hours of being notified, collect a sample from its ground water source(s) under paragraph (3)(A)2. of this rule and analyze it for a fecal indicator under subsection (3)(C) of this rule. If this sample is fecal indicator-positive, the system must notify all consecutive systems served by that ground water source of the fecal indicator source water positive within twenty-four (24) hours of being notified of the monitoring result and must meet the requirements of paragraph (3)(A)3. of this rule.

6. Exceptions to triggered source water monitoring requirements. A ground water system is not required to comply with the source water monitoring requirements of this subsection (3)(A) if either of the following conditions exists:

A. The department determines, and documents in writing, that the total coliform-positive sample collected under *[10 CSR 60-4.020(1) until March 31, 2016, or under]* 10 CSR 60-4.022(4)-(7) *[beginning April 1, 2016,]* is caused by a distribution system deficiency; or

B. The total coliform-positive sample collected under *[10 CSR 60-4.020(1) until March 31, 2016, or under]* 10 CSR 60-4.022(4)-(7) *[beginning April 1, 2016,]* is collected at a location that meets department criteria for distribution system conditions that will cause total coliform-positive samples.

(C) Analytical Methods.

1. A ground water system subject to the source water monitoring requirements of subsection (3)(A) of this rule must collect a standard sample volume of at least one hundred milliliters (100 mL) for

fecal indicator analysis regardless of the fecal indicator or analytical method used.

2. A ground water system must analyze all ground water source samples collected under subsection (3)(A) of this rule using one (1) of the analytical methods listed in **the Environmental Protection Agency's *Code of Federal Regulations*,** 40 CFR 141.402**, published February 13, 2013**. **This document is incorporated by reference without any later amendments 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.**

(4) Treatment Technique Requirements.

(A) Ground Water Systems with Significant Deficiencies or Source Water Fecal Contamination.

1. The treatment technique requirements of this rule must be met by ground water systems when a significant deficiency is identified or when a ground water source sample collected under paragraph (3)(A)3. of this rule is fecal indicator-positive.

2. If directed by the department, a ground water system with a ground water source sample collected under paragraph (3)(A)3., paragraph (3)(A)4., or subsection (3)(B) that is fecal indicator-positive must comply with the treatment technique requirements of this section (4).

3. When a significant deficiency is identified at a public water system that uses both ground water and surface water or ground water under the direct influence of surface water, the system must comply with provisions of this subsection (4)(A) except in cases where the department determines that the significant deficiency is in a portion of the distribution system that is served solely by surface water or ground water under the direct influence of surface water.

4. Unless the department directs the ground water system to implement a specific corrective action, the ground water system must consult with the department regarding the appropriate corrective action within thirty (30) days of receiving written notice from the department of a significant deficiency, written notice from a laboratory that a ground water source sample collected under paragraph (3)(A)3. of this rule was found to be fecal indicator-positive, or direction from the department that a fecal indicator-positive sample collected under paragraph (3)(A)2., paragraph (3)(A)4., or subsection (3)(B) of this rule requires corrective action. For the purposes of this rule, significant deficiencies include but are not limited to defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the department determines are causing, or have potential for causing, the introduction of contamination into the water delivered to consumers. Such significant deficiencies may include, but may not be limited to, the following:

A. For the source, any improperly constructed, sealed, or inadequately screened opening in the well head;

B. For treatment—

(I) Failure to perform and record the results of sufficient analyses to maintain control of treatment process or water quality;

(II) Systems required to provide 4-log virus inactivation or removal that do not meet disinfection concentration and detention time requirements; or

(III) Systems that are required to disinfect that do not have standby redundant disinfection facilities;

C. For distribution systems—

(I) The existence of a known unprotected cross-connection;

(II) Widespread or persistent low pressure events as defined in 10 CSR 60-4.080*[(9)]***(8)**;

(III) Submerged automatic air release valves or uncapped manual air release valves; or

(IV) Failure to properly disinfect new or newly-repaired water mains;

D. For finished water storage—

(I) The existence of any unprotected, inadequately protected, or improperly constructed opening in a storage facility; or

(II) Evidence that the water in the storage facility has been contaminated (for example, feathers or nesting materials in an overflow pipe or positive bacteria samples);

E. For pumps or pump facilities and controls, repeated or persistent low pressures caused by pump or pump control problems or inadequate pump capacity;

F. For monitoring, reporting, or data verification—

(I) Falsification of monitoring or reporting records; or

(II) Failure to maintain system records required under 10 CSR 60-9.010;

G. For water system management or operations, failure to address significant deficiencies listed in the most recent inspection or sanitary survey report; and

H. For operator compliance—

(I) Lack of properly certified chief operator in responsible charge of the treatment facility as required under 10 CSR 60-14.010(4); or

(II) Lack of properly certified chief operator in responsible charge of the distribution facility as required under 10 CSR 60-14.010(4).

5. Within one hundred twenty (120) days (or earlier if directed by the department) of receiving written notification from the department of a significant deficiency, written notice from a laboratory that a ground water source sample collected under paragraph (3)(A)3. of this rule was found to be fecal indicator-positive, or direction from the department that a fecal indicator-positive sample collected under paragraph (3)(A)2., paragraph (3)(A)4., or subsection (3)(B) of this rule requires corrective action, the ground water system must either—

A. Have completed corrective action in accordance with applicable department plan review processes or other department guidance or direction, if any, including department-specified interim measures; or

B. Be in compliance with a department-approved corrective action plan and schedule subject to the following conditions:

(I) Any subsequent modifications to a department-approved corrective action plan and schedule must be approved by the department; and

(II) If the department specifies interim measures for protection of the public health pending department approval of the corrective action plan and schedule or pending completion of the corrective action plan, the system must comply with these interim measures as well as with any schedule specified by the department.

6. Corrective action alternatives. Ground water systems that meet the conditions of paragraph (4)(A)1. or (4)(A)2. of this rule must implement one (1) or more of the following corrective action alternatives under the direction and approval of the department:

A. Correct all significant deficiencies;

B. Provide an alternate source of water;

C. Eliminate the source of contamination; or

D. Provide treatment that reliably achieves at least 4-log treatment of viruses before or at the first customer for the ground water source.

7. Special notice to the public of significant deficiencies or source water fecal contamination.

A. In addition to the applicable public notification requirements of 10 CSR 60-8.010*[(2)]*, a community ground water system that receives notice from the department of a significant deficiency or notification of a fecal indicator-positive ground water source sample that is not invalidated by the department under subsection (3)(D) of this rule must inform the public served by the water system under 10 CSR 60-8.030(2)(H)6. of the fecal indicator-positive source sample or of any significant deficiency that has not been corrected. The system must continue to inform the public annually until the significant deficiency is corrected or the fecal contamination in the ground water source is determined by the department to be corrected under paragraph (4)(A)5. of this rule.

B. In addition to the applicable public notification requirements of 10 CSR 60-8.010, a non-community ground water system that receives notice from the department of a significant deficiency must inform the public served by the water system in a manner approved by the department of any significant deficiency that has not been corrected within twelve (12) months of being notified by the department, or earlier if directed by the department. The system must continue to inform the public annually until the significant deficiency is corrected.

(I) The information must include:

(a) The nature of the significant deficiency and the date the significant deficiency was identified by the department;

(b) The department-approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed; and

(c) For systems with a large proportion of non-English speaking consumers, as determined by the department, information in the appropriate language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

(II) If directed by the department, a non*[-]*community water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction.

(B) Compliance Monitoring.

1. Existing ground water sources. A ground water system that is not required to meet the source water monitoring requirements of this rule for any ground water source because it provides at least 4-log treatment of viruses before or at the first customer for any ground water source before December 1, 2009, must notify the department in writing that it provides at least 4-log treatment of viruses before or at the first customer for the specified ground water source and begin compliance monitoring in accordance with paragraph (4)(B)3. of this rule by December 1, 2009. Notification to the department must include engineering, operational, or other information that the department requests to evaluate the submission. If the system subsequently discontinues 4-log treatment of viruses before or at the first customer for a ground water source, the system must conduct ground water source monitoring as required under section (3) of this rule.

2. New ground water sources. A ground water system that places a ground water source in service after November 30, 2009, that is not required to meet the source water monitoring requirements of this rule because the system provides at least 4-log treatment of viruses before or at the first customer for the ground water source must comply with the following:

A. The system must notify the department in writing that it provides at least 4-log treatment of viruses before or at the first customer for the ground water source. Notification to the department must include engineering, operational, or other information that the department requests to evaluate the submission;

B. The system must conduct compliance monitoring as required under paragraph (4)(B)3. of this rule within thirty (30) days of placing the source in service; and

C. The system must conduct ground water source monitoring under section (3) of this rule if the system subsequently discontinues 4-log treatment of viruses before or at the first customer for the ground water source.

3. Monitoring requirements. A ground water system subject to the requirements of subsection (4)(A), or paragraph (4)(B)1. or (4)(B)2. of this rule must monitor the effectiveness and reliability of treatment for that ground water source before or at the first customer as follows:

A. Chemical disinfection.

(I) A ground water system that serves greater than three thousand three hundred (3,300) people must continuously monitor the residual disinfectant concentration using analytical methods specified in 10 CSR 60-5.010(5) at a location approved by the department and must record the lowest residual disinfectant concentration each day that water from the ground water source is served to the public. The ground water system must maintain the department-determined residual disinfectant concentration every day the ground water system serves water from the ground water source to the public. If there is a failure in the continuous monitoring equipment, the ground water system must conduct grab sampling every four (4) hours until the continuous monitoring equipment is returned to service. The system must resume continuous residual disinfectant monitoring within fourteen (14) days.

(II) A ground water system that serves three thousand three hundred (3,300) or fewer people must monitor the residual disinfectant concentration using analytical methods specified in 10 CSR 60-5.010(5) at a location approved by the department and record the residual disinfection concentration each day that water from the ground water source is served to the public. The ground water system must maintain the department-determined residual disinfectant concentration every day the ground water system serves water from the ground water source to the public. The ground water system must take a daily grab sample during the hour of peak flow or at another time specified by the department. If any daily grab sample measurement falls below the department-determined residual disinfectant concentration, the ground water system must take follow-up samples every four (4) hours until the residual disinfectant concentration is restored to the department-determined level. Alternatively, a ground water system that serves three thousand three hundred (3,300) or fewer people may monitor continuously and meet the requirements in part (I) of this *[subparargraph]* **subparagraph** (4)(B)3.A.

B. Membrane filtration. A ground water system that uses membrane filtration to meet the requirements of this rule must monitor the membrane filtration process in accordance with all department-specified monitoring requirements and must operate the membrane filtration in accordance with all department-specified compliance requirements. The department will consider the manufacturer's recommendations and guidelines as well as standard industry practices in setting monitoring and compliance requirements. A ground water system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when—

(I) The membrane has an absolute molecular weight cut-off, or an alternate parameter that describes the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;

(II) The membrane process is operated in accordance with department-specified compliance requirements; and

(III) The integrity of the membrane is intact.

C. Alternative treatment. A ground water system that uses a department-approved alternative treatment to meet the requirements of this rule by providing at least 4-log treatment of viruses before or at the first customer must monitor the alternative treatment in accordance with all department-specified monitoring requirements and operate the alternative treatment in accordance with all compliance requirements that the department determines to be necessary to achieve at least 4-log treatment of viruses. The department will consider the manufacturer's recommendations and guidelines as well as standard industry practices in setting monitoring and compliance requirements for the approved alternative treatment.

*AUTHORITY: section 640.100, RSMo [Supp. 2014] **2016**. Original rule filed April 14, 2010, effective Dec. 30, 2010. Amended: Filed Aug. 12, 2015, effective March 30, 2016. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.050 Maximum Turbidity Levels and Monitoring Requirements and Filter Backwash Recycling. The department is deleting compliance dates and applicable sunset requirements with resulting renumbering thereafter. Amending section (2)(C)1. and 2., amending section (2)(E)2., and combining deleted language from section (1)(B) and amending section (3)(A).

PURPOSE: The amendment removes sunset compliance dates and updates regulation citations due to concurrent rulemakings.

(1) Applicability.

[(A)] This rule applies to all public water systems that use surface water or ground-water under the direct influence of surface water. *[Requirements and compliance dates vary depending on system size.]*

[(B) Beginning on November 30, 2002, any water treatment plant proposed for construction or major modification must be designed to meet the filter backwash requirements in section (4) of this rule.]

[(2) Systems Serving Less Than Ten Thousand (10,000) People. (Note: This section remains in effect only until January 13, 2005. Beginning January 14, 2005, the turbidity levels and other requirements in section (3) of this rule replace the requirements of this section.)

(A) Maximum Turbidity Levels.

1. The turbidity level must be less than or equal to 0.5 turbidity units in at least ninety-five percent (95%) of the measurements taken each month.

2. The turbidity level must at no time exceed five (5) turbidity units in any one (1) confirmed measurement.

(B) The frequency of sampling shall be as set forth in 10 CSR 60-4.080(3).

(C) If the result of a single turbidity measurement exceeds the level established in subsection (2)(A), the measurement must be confirmed by resampling, preferably within one (1) hour. The resample result must replace the original sample result for determining compliance with subsection (2)(A) of this rule.

(D) If any confirmed sample result exceeds five (5) turbidity units, the supplier of water must notify the department by the end of the next business day and give notice as required by 10 CSR 60-8.010(2).

(E) The department, on a case-by-case basis, may allow a system to operate at a maximum turbidity level of 1.0 turbidity units in at least ninety-five percent (95%) of the measurements taken each month if the following criteria are met: the total percent removal and inactivation of Giardia lamblia is ninety-nine and nine-tenths percent (99.9%), required treatment is provided, the treatment facilities are properly operated, none of the treatment units are malfunctioning due to mechanical failure or incorrect construction, the system is in compliance with all of the disinfection requirements of 10 CSR 60-4.055(1)–(4), the treatment facilities are providing ninety-nine percent (99%) Giardia cyst removal and the system cannot meet the turbidity level of 0.5 turbidity units due to raw water quality, iron, manganese or similar compelling factors. The request to operate at the higher turbidity level must be made in writing and be accompanied by an engineering report which includes the results of full scale particle or Giardia cyst removal studies, operational test data, water analyses results, a report of the sanitary survey of the treatment facilities and any other information that the department may require to assure that the criteria of this rule are met. Approval of the engineering report is the approval to operate at the higher turbidity level.]

*[(3)]***(2)** Enhanced Turbidity Requirements.

[(A) Beginning January 1, 2002 for systems serving ten thousand (10,000) or more people and beginning January 14, 2005 for systems serving less than ten thousand (10,000) people maximum turbidity levels and other requirements are as set forth in this section.]

*[(B)]***(A)** Maximum Turbidity Levels.

1. Turbidity must be equal to or less than 0.3 turbidity units in at least ninety-five percent (95%) of the measurements taken each month; and

2. There must be no more than one (1) turbidity unit in any one (1) measurement.

*[(C)]***(B)** The frequency of sampling shall be as set forth in 10 CSR 60-4.080(3).

*[(D)]***(C)** Reporting to the Department.

1. If at any time the turbidity exceeds one (1) nephelometric turbidity unit (NTU) in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the department as soon as possible, but no later than the end of the next business day.

[2. If any sample result exceeds five (5) turbidity units, the supplier of water must consult with the department as soon as practical, but no later than twenty-four (24) hours after the exceedance is known, except that the department may allow additional time in the event of extenuating circumstances beyond the control of the owner or operator, such as a natural disaster.]

*[3.]***2.** If at any time the turbidity in representative samples of filtered water exceeds the maximum level set by the department under subsection *[(3)(G)]* **(2)(F)** of this rule for filtration technologies other than conventional filtration treatment, the system must inform the department as soon as possible, but no later than the end of the next business day.

*[(E)]***(D)** Filtration Sampling Requirements for Surface Water Systems

1. A public water system *[subject to the requirements of 10 CSR 60-4.055(6)]* **using surface water or groundwater under the direct influence of surface water** that provides conventional filtration treatment must conduct continuous monitoring of turbidity for each individual filter using an approved method in 10 CSR 60-5.010 and must calibrate turbidimeters using the procedure specified by the manufacturer. Systems must record the results of individual filter monitoring every fifteen (15) minutes.

2. If there is a failure in the continuous turbidity monitoring equipment, the system must conduct grab sampling every four (4) hours in lieu of continuous monitoring, until the turbidimeter is repaired and back on-line. A system has a maximum of five (5) working days after failure in the continuous monitoring equipment to repair the equipment before the system is in violation. With department approval, systems serving less than ten thousand (10,000) people may be granted up to fourteen (14) days to repair the equipment

before the system is in violation.

*[(F)]***(E)** Lime Softening.

1. A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the department.

2. Systems that use lime softening may apply to the department for alternative exceedance levels for the levels specified in 10 CSR 60-7.010*[(7)]***(6)**(B) if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

*[(G)]***(F)** Filtration Technologies Other Than Conventional Filtration Treatment.

1. A public water system may use a filtration technology other than conventional filtration if it demonstrates to the department, using pilot plant studies or other means, that the alternative filtration technology, including direct filtration, in combination with disinfection treatment that meets the requirements of 10 CSR 60-4.055, consistently achieves 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts and 99.99 percent removal and/or inactivation of viruses, and ninety-nine percent (99%) removal of *Cryptosporidium* oocysts, and the department approves the use of the filtration technology.

2. For each approval, the department will set turbidity performance requirements that the system must meet at least ninety-five percent (95%) of the time and that the system may not exceed at any time at a level that consistently achieves 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts, 99.99 percent removal or inactivation of viruses, or both, and 99 percent removal of *Cryptosporidium* oocysts.

*[(4)]***(3)** Filter Backwash Recycling.

(A) Applicability. *[All surface water and groundwater under the direct influence of surface water systems that use conventional filtration or direct filtration treatment and that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes must meet the requirements of this section.]* **Any water treatment plant proposed for construction or major modification for a surface water or groundwater under the direct influence of surface water or direct filtration treatment and that will recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes must be designed to meet the filter backwash recycling requirements of this section.**

(B) Reporting. A system must notify the department in writing *[by December 8, 2003,]* if the system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, at a minimum, the following information:

1. A plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are reintroduced back into the treatment plant; and

2. Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and department-approved operating capacity for the plant where the department has made such determinations.

(C)Treatment Technique Requirement. Any system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must return these flows through the processes of a system's existing conventional or direct filtration system or at an alternate location approved by the department *[by June 8, 2004. If capital improvements are required to modify the recycle location to meet this requirement, all capital improvements must be completed not later than June 8, 2006]*.

(D) Record Keeping. The system must collect and retain on file recycle flow information for review and evaluation by the department *[beginning June 8, 2004]*. This information shall include, but may not be limited to:

1. A copy of the recycle notification and information submitted to the department under subsection (4)(B) of this rule;

2. A list of all recycle flows and the frequency with which they are returned;

3. Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;

4. Typical filter run length and a written summary of how filter run length is determined;

5. The type of treatment provided for the recycle flow; and

6. Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

*AUTHORITY: section 640.100, RSMo [Supp. 2002] **2016**. Original rule filed May 4, 1979, effective Sept. 14, 1979. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.052 Source Water Monitoring and Enhanced Treatment Requirements. The department is amending citations in (4)(D), (13)(B), (16)(A) and (B), and (18)(A) as part of concurrent rulemaking changes.

PURPOSE: This amendment corrects regulation citations due to concurrent rulemaking amendments in 10 CSR 60-4.

(4) Sampling Locations.

(D) Bank Filtration Requirements.

1. Systems that receive *Cryptosporidium* treatment credit for bank filtration under 10 CSR 60-4.050*[(3)(G)]***(2)(F)** as applicable, must collect source water samples in the surface water prior to bank filtration.

2. Systems that use bank filtration as pretreatment to a filtration plant must collect source water samples from the well (i.e., after bank filtration). Use of bank filtration during monitoring must be consistent with routine operational practice. Systems collecting samples after a bank filtration process may not receive treatment credit for the bank filtration under subsection (15)(C) of this rule.

(E) Multiple Sources. Systems with plants that use multiple water

sources, including multiple surface water sources and blended surface water and ground water sources, must collect samples as specified in paragraph (4)(E)1. or 2. of this rule. The use of multiple sources during monitoring must be consistent with routine operational practice.

1. If a sampling tap is available where the sources are combined prior to treatment, systems must collect samples from the tap.

2. If a sampling tap where the sources are combined prior to treatment is not available, systems must collect samples at each source near the intake on the same day and must follow either subparagraph (4)(E)2.A. or B. of this rule for sample analysis.

A. Systems may take composite samples from each source into one (1) sample prior to analysis. The volume of sample from each source must be weighted according to the proportion of the source in the total plant flow at the time the sample is collected.

B. Systems may analyze samples from each source separately and calculate a weighted average of the analysis results for each sampling date. The weighted average must be calculated by multiplying the analysis result for each source by the fraction the source contributed to total plant flow at the time the sample was collected and then summing these values.

(F) Additional Requirements. Systems must submit a description of their sampling location(s) to the department at the same time as the sampling schedule required under section (3) of this rule. This description must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including pretreatment, points of chemical treatment, and filter backwash recycle. If the department does not respond to a system regarding sampling location(s), the system must sample at the reported location(s).

(13) Microbial Toolbox Options for Meeting *Cryptosporidium* Treatment Requirements.

(B) The following table summarizes options in the microbial toolbox:

Microbial Toolbox Summary Table: Options, Treatment Credit, and Criteria

Toolbox Option	Cryptosporidium treatment credit with design and implementation criteria
	Source Protection and Management Toolbox Options
Watershed control program	0.5-log credit for department-approved program comprising required elements, annual program status report to the department, and regular watershed survey. Specific criteria are in subsection (14)(A).
Alternative source/intake management	No prescribed credit. Systems may conduct simultaneous monitoring for treatment bin classification at alternative intake locations or under alternative management strategies. Specific criteria are in subsection (14)(B).
	Pre-Filtration Toolbox Options
Presedimentation basin with coagulation	0.5-log credit during any month that presedimentation basins achieve a monthly mean reduction of 0.5-log or greater in turbidity or alternative department-approved performance criteria. To be eligible, basins must be operated continuously with coagulant addition and all plant flow must pass through basins. Specific criteria are in subsection (15)(A).
Two-stage lime softening	0.5-log credit for two-stage softening where chemical addition and hardness precipitation occur in both stages. All plant flow must pass through both stages. Single-stage softening is credited as equivalent to conventional treatment. Specific criteria are in subsection (15)(B).
Bank filtration	0.5-log credit for 25-foot setback; 1.0-log credit for 50-foot setback; aquifer must be unconsolidated sand containing at least *[10]* **ten** percent **(10%)** fines; average turbidity in wells must be less than **one (**1**)** NTU. Systems using wells followed by filtration when conducting source water monitoring must sample the well to determine bin classification and are not eligible for additional credit. Specific criteria are in subsection (15)(C).
	Treatment Performance Toolbox Options
Combined filter performance	0.5-log credit for combined filter effluent turbidity less than or equal to 0.15 NTU in at least *[95]* **ninety-five** percent **(95%)** of measurements each month. Specific criteria are in subsection (16)(A).
Individual filter performance	0.5-log credit (in addition to 0.5-log combined filter performance credit) if individual filter effluent turbidity is less than or equal to 0.15 NTU in at least *[95]* **ninety-five** percent **(95%)** of samples each month in each filter and is never greater than 0.3 NTU in two consecutive measurements in any filter. Specific criteria are in subsection (16)(B).
Demonstration of performance	Credit awarded to unit process or treatment train based on a demonstration to the department with a department-approved protocol. Specific criteria are in subsection (16)(C).
Bag or cartridge filters (individual filters)	Up to 2-log credit based on the removal efficiency demonstrated during challenge testing with a 1.0-log factor of safety. Specific criteria are in subsection (17)(A).
Bag or cartridge filters (in series)	Up to 2.5-log credit based on the removal efficiency demonstrated during challenge testing with a 0.5-log factor of safety. Specific criteria are in subsection (17)(A).
Membrane filtration	Log credit equivalent to removal efficiency demonstrated in challenge test for device if supported by direct integrity testing. Specific criteria are in subsection (17)(B).
Second stage filtration	0.5-log credit for second separate granular media filtration stage if treatment train includes coagulation prior to first filter. Specific criteria are in subsection (17)(C).
Slow sand filtration	2.5-log credit as a secondary filtration step; 3.0-log credit as a primary filtration process. No prior chlorination for either option. Specific criteria are in subsection (17)(D).
	Inactivation Toolbox Options
Chlorine dioxide	Log credit based on measured CT in relation to CT table. Specific criteria in subsection (18)(B).
Ozone	Log credit based on measured CT in relation to CT table. Specific criteria in subsection (18)(B).
Ultra-violet	Log credit based on validated UV dose in relation to UV dose table; reactor validation testing required to establish UV dose and associated operating conditions. Specific criteria in subsection (18)(D).

(16) Treatment Performance Toolbox Components.

(A) Combined Filter Performance. Systems using conventional filtration treatment or direct filtration treatment receive an additional 0.5-log *Cryptosporidium* treatment credit during any month the system meets the criteria in this subsection. Combined filter effluent (CFE) turbidity must be less than or equal to 0.15 NTU in at least ninety-five percent (95%) of the measurements. Turbidity must be measured as described in 10 CSR 60-4.050*[(3)]***(2)** and 10 CSR 60-4.080(3).

(B) Individual Filter Performance. Systems using conventional filtration treatment or direct filtration treatment receive 0.5-log *Cryptosporidium* treatment credit, which can be in addition to the 0.5-log credit under subsection (16)(A) during any month the system meets the criteria in this subsection. Compliance with these criteria must be based on individual filter turbidity monitoring as described in 10 CSR 60-4.050*[(3)(E)]***(2)(D)** and 10 CSR 60-7.010*[(7)]***(6)**.

1. The filtered water turbidity for each individual filter must be less than or equal to 0.15 NTU in at least ninety-five percent (95%) of the measurements recorded each month.

2. No individual filter may have a measured turbidity greater than 0.3 NTU in two (2) consecutive measurements taken fifteen (15) minutes apart.

3. Any system that has received treatment credit for individual filter performance and fails to meet the requirements of paragraph (16)(B)1. or 2. of this rule during any month does not receive a treatment technique violation under subsection (11)(C) of this rule if the department determines the following:

A. The failure was due to unusual and short-term circumstances that could not reasonably be prevented through optimizing treatment plant design, operation, and maintenance; and

B. The system has experienced no more than two (2) such failures in any calendar year.

(18) Inactivation Toolbox Components.

(A) Calculation of CT Values.

1. CT is the product of the disinfectant contact time (T, in minutes) and disinfectant concentration (C, in milligrams per liter). Systems with treatment credit for chlorine dioxide or ozone under subsection (18)(B) or (C) must calculate CT at least once each day, with both C and T measured during peak hourly flow as specified in 10 CSR 60-5.010, 10 CSR 60-5.020, and the ***Missouri*** *Guidance Manual for Surface Water System Treatment Requirements*, *[January]* 1992.

2. Systems with several disinfection segments in sequence may calculate CT for each segment, where a disinfection segment is defined as a treatment unit process with a measurable disinfectant residual level and a liquid volume. Under this approach, systems must add the *Cryptosporidium* CT values in each segment to determine the total CT for the treatment plant.

*AUTHORITY: section 640.100, RSMo [Supp. 2008] **2016**. Original rule filed Feb. 27, 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.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.055 Disinfection Requirements. The department is amending subsection (1)(E) due to concurrent rulemakings, removing the sunset language in (4)(E), amending (5)(A), and removing the sunset compliance dates of subsection (5)(C), amending and removing sunset compliance dates in section (6) along with updating citations to 10 CSR 60-4.094, removing section (6)(C)1.A.I-II, and removing language in section (6)(C)1.B.I-II.

PURPOSE: The amendment updates regulation citations due to concurrent rulemakings and removes language that has sunset.

(1) The requirements of this rule apply to primary community and noncommunity public water systems that the department has required to disinfect and to secondary systems with a source of water from a primary water system that the department has required to disinfect, even if the water is obtained through another secondary system.

(E) Primary systems which use water obtained from groundwater not under the direct influence of surface water and which the department requires to disinfect and secondary public water systems do not have to meet the requirements of section (2) of this rule but may be required to provide disinfection detention as deemed necessary by the department. These systems also do not have to submit reports to the department as required by 10 CSR 60-7.010*[(5)]***(4)** but must maintain the information on file at the system treatment plant or office.

(2) Contact Time and Removal Credit.

(D) Disinfectant contact time must be determined for each system by evaluations performed as specified in the *Missouri Guidance Manual [F]***f**or *Surface Water System Treatment Requirements,* 1992, which is incorporated by reference. Results of the evaluations, including the determined disinfectant contact times, must be submitted to the department for review. The evaluation must be submitted within one (1) year of the date that the system is covered by the requirements of this rule, except that new water treatment facilities will not be issued a Final Approval of Construction under 10 CSR 60-3.010 until disinfection contact times are determined and submitted to the department.

(4) The residual disinfectant concentration in the distribution system measured as total chlorine or combined chlorine cannot be less than 0.2 mg/L in more than five percent (5%) of the samples each month for any two (2) consecutive months that the system supplies water to the public.

(E) *[Until March 31, 2016, the residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled as specified in 10 CSR 60-4.020. Beginning April 1, 2016, p]***P**ublic water systems that use chlorine or chloramines must measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled, as specified in 10 CSR 60-4.022(4)-(8). Failure to comply with this subsection is a monitoring violation which requires public notification as specified in 10 CSR 60-8.010.

(5) Maximum Residual Disinfectant Levels.

(A) Maximum residual disinfectant levels (MRDL) **applicable to**

all community and nontransient noncommunity water systems using chlorine, chloramines or chlorine dioxide and to all transient noncommunity water systems using chlorine dioxide are—

Disinfectant Residual	MRDL (mg/L)
Chlorine	4.0 (as Cl_2)
Chloramines	4.0 (as Cl_2)
Chlorine dioxide	0.8 (as ClO_2)

[(C) Compliance Dates.

1. Community water systems and nontransient noncommunity water systems.

A. Systems serving ten thousand (10,000) or more persons and using surface water or groundwater under the direct influence of surface water must comply with the MRDLs beginning January 1, 2002.

B. Systems serving fewer than ten thousand (10,000) persons and using surface water or groundwater under the direct influence of surface water and systems using only groundwater not under the direct influence of surface water must comply with the MRDLs beginning January 1, 2004.

2. Transient noncommunity water systems.

A. Systems serving ten thousand (10,000) or more persons and using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the chlorine dioxide MRDL beginning January 1, 2002.

B. Systems serving less than ten thousand (10,000) persons, using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant, and systems using only groundwater not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant, must comply with the chlorine dioxide MRDL beginning January 1, 2004.]

(6) Enhanced Disinfection Requirements. *[Enhanced disinfection requirements and compliance dates vary depending on system size.]*

(A) *[Compliance Dates.]* In addition to the requirements in sections (1)–(4) of this rule, surface water and groundwater under the direct influence of surface water systems *[serving at least ten thousand (10,000) people also]* must comply with the requirements in this section *[beginning January 1, 2002 unless otherwise specified. Those systems serving less than ten thousand (10,000) people must comply with the requirements in this section beginning January 14, 2005 unless otherwise specified]*.

(B) General Requirements.

1. This section (6) establishes or extends treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: *Giardia lamblia,* viruses, heterotrophic plate count bacteria, *Legionella*, *Cryptosporidium*, and turbidity. Each surface water and groundwater under the direct influence of surface water system*[, including those serving less than ten thousand (10,000) people beginning January 14, 2005,]* must provide treatment of its source water that complies with these treatment technique requirements and are in addition to those identified in sections (1)–(4) of this rule. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

A. At least ninety-nine percent (99%) (2-log) removal of *Cryptosporidium* between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer; and

B. Compliance with the profiling and benchmark requirements under the provisions of subsection (6)(C) of this rule.

2. A public water system subject to the requirements of this section (6) is in compliance with the requirements of paragraph (6)(B)1. of this rule if it meets the applicable filtration requirements in 10 CSR 60-4.050 and the disinfection requirements in sections (2)–(4) and subsection (6)(C) of this rule.

(C) Disinfection Profiling and Benchmarking.

1. Disinfection profile. A disinfection profile is a summary of *Giardia lamblia* inactivation through the treatment plant measured through the course of a year. A public water system subject to the requirements of this section (6) must determine its total trihalomethanes (TTHM) annual average and its HAA5 annual average. The annual average is the arithmetic average of the quarterly averages of four (4) consecutive quarters of monitoring. *[Surface water systems serving fewer than ten thousand (10,000) people must determine the arithmetic average based on samples collected after January 1, 1998.]* If the annual average exceeds the levels in subparagraph (6)(C)1.D. then the requirements in paragraph (6)(C)2. apply.

A. The TTHM annual average must be the annual average during the same period as is used for the HAA5 annual average.

[(I) Those systems that use "grandfathered" HAA5 occurrence data that meet the provisions of part (5)(C)1.B.(I) of this rule must use TTHM data collected at the same time under the provisions of 10 CSR 60-4.090.

(II) Those systems that use HAA5 occurrence data that meet the provisions of subpart (6)(C)1.B.(II)(a) of this rule must use TTHM data collected at the same time under the provisions of 10 CSR 60-4.090.]

B. The HAA5 annual average must be the annual average during the same period as is used for the TTHM annual average.

(I) Those systems that have collected four (4) quarters of HAA5 occurrence data that meets the routine monitoring sample number and location requirements for TTHM in *[10 CSR 60-4.090 and handling and analytical method requirements of 40 CFR 141.142]* **10 CSR 60-4.094** may use those data to determine whether the requirements of this section apply.

(II) Those systems that did not collect four (4) quarters of HAA5 occurrence data that meets the provisions of part (6)(C)1.B.(I) of this rule by March 31, 2000 must either:

(a) Conduct monitoring for HAA5 that meets the routine monitoring sample number and location requirements for TTHM in *[10 CSR 60-4.090(2) and handling and analytical method requirements of 40 CFR 141.142(b)(1)]* **10 CSR 60-4.094** to determine the HAA5 annual average and whether the requirements of paragraph (6)(C)2. of this rule apply; or

(b) Comply with all other provisions of this section as if the HAA5 monitoring had been conducted and the results required compliance with paragraph (6)(C)2. of this rule.

C. The system must submit data to the department on the schedule required by the department.

D. Any system having either a TTHM annual average greater than or equal to 0.064 mg/L or an HAA5 annual average greater than or equal to 0.048 mg/L during the period identified in subparagraphs (6)(C)1.A. and B. of this rule must comply with paragraph (6)(C)2. of this rule.

2. Disinfection profiling requirements and compliance dates vary depending on system size. Surface water **and groundwater under the direct influence of surface water** systems serving a population of *[less]* **more** than ten thousand (10,000) **must monitor profiling data according to subparagraph (6)(C)2.B. through (6)(C)2.C. Surface water and groundwater under the direct influence of surface water systems serving a population of less than ten thousand (10,000)** must monitor profiling data according to subparagraph (6)(C)2.D. *[beginning July 1, 2003. Surface water and groundwater under the direct influence of surface water (GWUDISW) systems serving a population of less than five hundred (500) must monitor profiling data according to subparagraph (6)(C)2.D. beginning January 1, 2004.]*

A. Any system that meets the criteria in subparagraph (6)(C)1.D. of this rule must develop a disinfection profile of its disinfection practice for a period of up to three (3) years.

B. The system must monitor daily for a period of twelve (12) consecutive calendar months to determine the total logs of inactivation for each day of operation, based on the $CT_{99.9}$ values in Tables 1 through 8 of the *Missouri Guidance Manual for Surface Water System Treatment Requirements*, ***1992,*** as appropriate, through the entire treatment plant. This system must begin this monitoring when requested by the department. As a minimum, the system with a single point of disinfectant application prior to entrance to the distribution system must conduct the monitoring set forth in this subparagraph (6)(C)2.B. A system with more than one (1) point of disinfectant application must conduct this monitoring for each disinfection segment. The system must monitor the parameters necessary to determine the total inactivation ratio, using analytical methods in 10 CSR 60-5.010, as follows:

(I) The temperature of the disinfected water must be measured once per day at each residual disinfectant concentration sampling point during peak hourly flow;

(II) If the system uses chlorine, the pH of the disinfected water must be measured once per day at each chlorine residual disinfectant concentration sampling point during peak hourly flow;

(III) The disinfectant contact time(s) must be determined for each day during peak hourly flow; and

(IV) The residual disinfectant concentration(s) of the water before or at the first customer and prior to each additional point of disinfection must be measured each day during peak hourly flow.

C. In lieu of the monitoring conducted under the provisions of subparagraph (6)(C)2.B. of this rule to develop the disinfection profile the system may elect to meet the requirements of part (6)(C)2.C.(I) of this rule. In addition to the monitoring conducted under the provisions of subparagraph (6)(C)2.B. of this rule to develop the disinfection profile, the system may elect to meet the requirements of part (6)(C)2.C.(II) of this rule.

(I) A PWS that has three (3) years of existing operational data may submit those data, a profile generated using those data, and a request that the department approve use of those data in lieu of monitoring under the provisions of paragraph (6)(C)2. of this rule. The department must determine whether these operational data are substantially equivalent to data collected under the provisions of subparagraph (6)(C)2.B. of this rule. These data must also be representative of *Giardia lamblia* inactivation through the entire treatment plant and not just of certain treatment segments. Until the department approves this request, the system is required to conduct monitoring under the provisions of subparagraph (6)(C)2.B. of this rule.

(II) In addition to the disinfection profile generated under subparagraph (6)(C)2.B. of this rule, a PWS that has existing operational data may use those data to develop a disinfection profile for additional years. Such systems may use these additional yearly disinfection profiles to develop a benchmark under the provisions of paragraph (6)(C)3. of this rule. The department will determine whether these operational data are substantially equivalent to data collected under the provisions of subparagraph (6)(C)2.B. of this rule. These data must also be representative of inactivation through the entire treatment plant and not just of certain treatment segments.

D. The system must monitor once per week on the same calendar day, for a period of twelve (12) consecutive calendar months, to determine the total logs of inactivation for each week of operation, based on the $CT_{99.9}$ values in Tables 1 through 8 of the *Missouri Guidance Manual for Surface Water System Treatment Requirements*, ***1992,*** as appropriate, through the entire treatment plant. As a minimum, the system with a single point of disinfectant application prior to entrance to the distribution system must conduct the monitoring set forth in this subparagraph. A system with more than one (1) point of disinfectant application must conduct this monitoring for each disinfection segment. The system must monitor the parameters necessary to determine the total inactivation ratio, using analytical methods in 10 CSR 60-5.010, as follows:

(I) The temperature of the disinfected water must be measured at each residual disinfectant concentration sampling point during peak hourly flow;

(II) If the system uses chlorine, the pH of the disinfected water must be measured at each chlorine residual disinfectant concentration sampling point during peak hourly flow;

(III) The disinfectant contact time(s) must be determined during peak hourly flow; and

(IV) The residual disinfectant concentration(s) of the water before or at the first customer and prior to each additional point of disinfection must be measured during peak hourly flow.

E. The system must calculate the total inactivation ratio as follows:

(I) The system may determine the total inactivation ratio for the disinfection segment based on either of the following methods:

(a) Determine one (1) inactivation ratio ($CTcalc/CT_{99.9}$) before or at the first customer during peak hourly flow; or

(b) Determine successive ($CTcalc/CT_{99.9}$) values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Under this alternative, the system must calculate the total inactivation ratio by determining ($CTcalc/CT_{99.9}$) for each sequence and then adding the ($CTcalc/CT_{99.9}$) values together to determine ($\sum(CTcalc/CT_{99.9})$); and

(II) The system must determine the total logs of inactivation by multiplying the value calculated in part (6)(C)2.D.(I) of this rule by three (3.0).

F. A system that uses either chloramines or ozone for primary disinfection must also calculate the logs of inactivation for viruses using a method identified in *[EPA's]* **the United States Environmental Protection Agency's Office of Water document,** *Alternative Disinfectants and Oxidants Guidance Manual***, Volume 99 Issue 14 of EPA 815-R, published April 1999**. **This document is incorporated by reference without any later amendments 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 (866)512-1800 or by visiting https://bookstore.gpo.gov.**

G. The system must retain disinfection profile data in graphic form, as a spreadsheet, or in some other format acceptable to the department for review as part of sanitary surveys conducted by the department.

3. Disinfection benchmarking.

A. Any system required to develop a disinfection profile under the provisions of paragraphs (6)(C)1. and 2. of this rule and that decides to make a significant change to its disinfection practice must consult with the department in writing prior to making such change. Significant changes to disinfection practice are:

(I) Changes to the point of disinfection;

(II) Changes to the disinfectant(s) used in the treatment plant;

(III) Changes to the disinfection process; and

(IV) Any other modification identified by the department.

B. Any system that is modifying its disinfection practice must calculate its disinfection benchmark using one (1) of the following procedures:

(I) For each year of profiling data collected and calculated under paragraph (6)(C)2. of this rule, the system must determine the lowest average monthly *Giardia lamblia* inactivation in each year of profiling data. The system must determine the average *Giardia lamblia* inactivation for each calendar month for each year of profiling data by dividing the sum of *Giardia lamblia* inactivation by the number of values calculated for that month; or

(II) The disinfection benchmark is the lowest monthly average value (for systems with one (1) year of profiling data) or average of lowest monthly average values (for systems with more than one (1) year of profiling data) of the monthly logs of *Giardia lamblia* inactivation in each year of profiling data.

C. A system that uses either chloramines or ozone for primary disinfection must also calculate the disinfection benchmark for

viruses using a method approved by the department.

D. The system must submit the following information to the department as part of its consultation process:

(I) A description of the proposed change;

(II) The disinfection profile for *Giardia lamblia* (and, if necessary, viruses) under paragraph (6)(C)2. of this rule and benchmark as required by subparagraph (6)(C)3.B. of this rule; and

(III) An analysis of how the proposed change will affect the current levels of disinfection.

(D) Filtration Sampling Requirements. A public water system subject to the requirements of this section (6) that provides conventional filtration treatment must conduct continuous monitoring of turbidity for each individual filter as indicated in 10 CSR 60-4.050*[(3)(E)]***(2)(D)1**.

*AUTHORITY: section 640.100, RSMo [Supp. 2014] **2016**. Original rule filed July 12, 1991, effective Feb. 6, 1992. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.060 Maximum Radionuclide Contaminant Levels and Monitoring Requirements. The department is moving language from section (1) to subsection (1)(E) and removing sunset language, deleting sunset language in (2)(A)4.A.–B., and renumbering thereafter, incorporating a document by reference.

PURPOSE: This amendment will remove language that has sunset and incorporates a document by reference.

(1) Maximum Contaminant Levels (MCL) *[and Compliance Dates]*.

(C) MCL for Beta Particle and Photon Radioactivity.

1. The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water must not produce an annual dose equivalent to the total body or any internal organ greater than four (4) millirem/year (mrem/year).

2. Except for the radionuclides listed in Table A, the concentration of man-made radionuclides causing four (4) mrem total body or organ dose equivalents must be calculated on the basis of two (2) liter per day drinking water intake using the one hundred sixty-eight (168) hour data list in "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NBS (National Bureau of Standards) Handbook 69 as amended August 1963, U.S. Department of Commerce, which is incorporated by reference **without any later editions or modifications**. If two (2) or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed four (4) mrem/year.

Table A.—Average Annual Concentrations Assumed to Produce a Total Body or Organ Dose of Mrem/Year

Radionuclide	Critical Organ	pCi per Liter
Tritium	Total body	20,000
Strontium-90	Bone Marrow	8

(E) Compliance Dates. Community water systems (CWSs) must comply with the MCLs listed in subsections (1)(A)–(D) of this rule *[beginning December 8, 2003]*. Compliance shall be determined in accordance with the requirements of 10 CSR 60-5.010 and section (2) of this rule. *[Compliance with Consumer Confidence Report and public notice requirements for radionuclides is required on December 8, 2003.]*

(2) Monitoring Frequency and Compliance Requirements for Radionuclides in Community Water Systems.

(A) Monitoring and Compliance Requirements for Gross Alpha Particle Activity, Radium-226, Radium-228, and Uranium.

1. Community water systems must conduct initial monitoring to determine compliance with subsections (1)(A), (B) and (D) of this rule *[by December 31, 2007]*. For the purposes of monitoring for gross alpha particle activity, radium-226, and radium-228, the detection limits are:

A. The detection limit for gross alpha particle activity is three (3) pCi/L;

B. The detection limit for radium-226 is one (1) pCi/L; and

C. The detection limit for radium-228 is one (1) pCi/L.

2. Applicability and sampling location for existing community water systems or sources. All existing CWSs using groundwater, surface water, or systems using both ground and surface water must sample at every entry point to the distribution system that is representative of all sources being used (hereafter called a sampling point) under normal operating conditions. The system must take each sample at the sample sampling point unless conditions make another sampling point more representative of each source *[or the department has designated a distribution system location, in accordance with part (2)(A)4.B.(III) of this rule]*.

3. Applicability and sampling location for new community water systems or sources. All new CWSs or CWSs that use a new source of water must begin to conduct initial monitoring for the new source within the first quarter after initiating use of the source. CWSs must conduct more frequent monitoring when ordered by the department in the event of possible contamination or when changes in the distribution system or treatment processes occur which may increase the concentration of radioactivity in finished water.

4. Initial monitoring for gross alpha particle activity, radium-226, radium-228, and uranium.

[A. Systems without acceptable historical data, as defined below, shall collect four (4) consecutive quarterly samples at all sampling points before December 31, 2007.

B. Grandfathering of data. Systems may use historical monitoring data collected at a sampling point to satisfy the initial monitoring requirements for that sampling point, for the following situations.

(I) To satisfy initial monitoring requirements, a community water system having only one (1) entry point to the distribution system may use the monitoring data from the last compliance monitoring period that began between June 1, 2000 and December 8, 2003.

(II) To satisfy initial monitoring requirements, a community water system with multiple entry points and having appropriate historical monitoring data for each entry point to

the distribution system may use the monitoring data from the last compliance monitoring period that began between June 1, 2000 and December 8, 2003.

(III) To satisfy initial monitoring requirements, a community water system with appropriate historical data for a representative point in the distribution system may use the monitoring data from the last compliance monitoring period that began between June 1, 2000 and December 8, 2003, provided that the department finds that the historical data satisfactorily demonstrate that each entry point to the distribution system is expected to be in compliance based upon the historical data and reasonable assumptions about the variability of contaminant levels between entry points. The department must make a written finding indicating how the data conforms to the these requirements.]

*[C.]***A.** For gross alpha particle activity, uranium, radium-226, and radium-228 monitoring, the department will waive the final two (2) quarters of initial monitoring for a sampling point if the results of the samples from the previous two (2) quarters are below the detection limit.

*[D.]***B.** If the average of the initial monitoring results for a sampling point is above the MCL, the system must collect and analyze quarterly samples at that sampling point until the system has results from four (4) consecutive quarters that are at or below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the department.

*[3.]***5.** Reduced monitoring. Community water systems may reduce the future frequency of monitoring from once every three (3) years to once every six (6) or nine (9) years at each sampling point, based on the following criteria.

A. If the average of the initial monitoring results for each contaminant (that is, gross alpha particle activity, uranium, radium-226, or radium-228) is below the detection limit specified in paragraph (2)(A)1. of this rule, the system must collect and analyze for that contaminant using at least one (1) sample at that sampling point every nine (9) years.

B. For gross alpha particle activity and uranium, if the average of the initial monitoring results for each contaminant is at or above the detection limit but at or below one-half (1/2) the MCL, the system must collect and analyze for that contaminant using at least one (1) sample at that sampling point every six (6) years. For combined radium-226 and radium-228, the analytical results must be combined. If the average of the combined initial monitoring results for radium-226 and radium-228 is at or above the detection limit but at or below one-half (1/2) the MCL, the system must collect and analyze for that contaminant using at least one (1) sample at that sampling point every six (6) years.

C. For gross alpha particle activity and uranium, if the average of the initial monitoring results for each contaminant is above one-half (1/2) the MCL but at or below the MCL, the system must collect and analyze at least one (1) sample at that sampling point every three (3) years. For combined radium-226 and radium-228, the analytical results must be combined. If the average of the combined initial monitoring results for radium-226 and radium-228 is above one-half (1/2) the MCL but at or below the MCL, the system must collect and analyze at least one (1) sample at that sampling point every three (3) years.

D. Systems must use the samples collected during the reduced monitoring period to determine the monitoring frequency for subsequent monitoring periods (for example, if a system's sampling point is on a nine (9)-year monitoring period, and the sample result is above one-half (1/2) the MCL, then the next monitoring period for that sampling point is three (3) years).

E. If a system has a monitoring result that exceeds the MCL while on reduced monitoring, the system must collect and analyze quarterly samples at that sampling point until the system has results from four (4) consecutive quarters that are below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the department.

*[4.]***6.** Compositing. To fulfill quarterly monitoring requirements for gross alpha particle activity, radium-226, radium-228, or uranium, a system may composite up to four (4) consecutive quarterly samples from a single entry point if analysis is done within a year of the first sample. The department will treat analytical results from the composited as the average analytical result to determine compliance with the MCLs and the future monitoring frequency. If the analytical result from the composited sample is greater than one-half (1/2) the MCL, the department may direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

*[5.]***7.** Gross alpha particle activity measurement.

A. A gross alpha particle activity measurement may be substituted for the required radium-226 measurement provided that the measured gross alpha particle activity does not exceed five (5) pCi/L. A gross alpha particle activity measurement may be substituted for the required uranium measurement provided that the measured gross alpha particle activity does not exceed fifteen (15) pCi/L.

B. The gross alpha measurement shall have a confidence interval of ninety-five percent (95%) (1.65σ, where σ is the standard deviation of the net counting rate of the sample) for radium-226 and uranium. When a system uses a gross alpha particle activity measurement in lieu of a radium-226 and/or uranium measurement, the gross alpha particle activity analytical result will be used to determine the future monitoring frequency for radium-226 and/or uranium. If the gross alpha particle activity result is less than detection, one-half (1/2) the detection limit will be used to determine compliance and the future monitoring frequency.

*AUTHORITY: section 640.100, RSMo [2000] **2016**. Original rule filed May 4, 1979, effective Sept. 14, 1979. Amended: Filed April 14, 1981, effective Oct. 11, 1981. Rescinded and readopted: Filed Jan. 16, 2002, effective Nov. 30, 2002. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.080 Operational Monitoring. The department is removing language from the Editor's Note and incorporating a document by reference in 10 CSR 60-2.015 (2)(M)8*;* amending section (3); updating and replacing the Operational Testing chart and format with a new chart; removing sections (4) and (10) and renumbering thereafter; and amending section (9).

PURPOSE: The amendment removes the Editor's Note for documents incorporated by reference, reduces some monitoring frequency requirements for public water systems and removes language that is redundant of section 640.120.5, RSMo.

[Editor's Note: The following material is incorporated into this rule by reference:

1) Methods for Chemical Analysis of Water and Wastes, Revised March 1983 (Springfield VA: U.S. Department of Commerce, 1983;

2) Standard Methods for the Examination of Water and Wastewater, 18th Edition (Baltimore, MD, Victor Graphics, Inc., 1992).

In accordance with section 536.013(4), RSMo, the full text of material incorporated by reference will be made available to any interested person at the Office of the Secretary of State and the headquarters of the adopting state agency.]

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

(2) Automatic instrumentation may be used if properly installed, maintained and periodically calibrated against known standards prepared in accordance with *Standard Methods for the Examination of Water and Wastewater 1992*, *[American Public Health Association, 18th edition , New York, NY]* **18th edition,** or *Methods for Chemical Analysis of Water and Wastes*, *[Environmental Monitoring Support Laboratory, USEPA, Cincinnati, OH 45268, EPA-600/4-79-020.]* **published in March 1983 by the Environmental Protection Agency's (MCAWW, Section 9.3, EPA/600/479/020, Cincinnati, OH). This document is incorporated by reference without any later amendments 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.**

(3) Sufficient analyses must be done to assure control of water quality, the following requirements notwithstanding. Continuous monitoring and recording may be used for any operational analysis instead of grab sampling provided that the requirements of section (2) are met. For those analyses where continuous monitoring is required, if there is a failure in the continuous monitoring equipment, grab sampling every *[two (2)]* **four (4)** hours of operation may be conducted in lieu of continuous monitoring but for no more than five (5) working days following the failure of the equipment. Applicable analyses and testing frequencies are as follows:

Test	Frequency	Sample Location	Treatment	Treatment	Treatment	Treatment
Alkalinity	As necessary for control	Raw Water	Clarification	Lime Softening		
Alkalinity	As necessary for control	Entry to distribution system	Clarification	Lime Softening		
Disinfection residual (1)	Continuous	Entry to distribution system				
Disinfection residual (2)	Daily	Entry to distribution system				
Disinfection residual (3)	At time of total coliform sampling	Total coliform sampling points				
Disinfection residual (4)	Monday-Friday, excluding federal holidays and days not serving water to the public	Entry to distribution system				
Disinfection residual	Start up and every 2 hours of operation	Filter influent and effluent	Clarification	Lime softening		
Fluoride (if compounds added)	Daily	Entry to distribution system	Fluoride adjustment			
Fluoride (if compounds added)	Quarterly	Representative point in distribution system	Fluoride adjustment			
Hardness (5)	Monday-Friday, excluding federal holidays and days not serving water to the public	Entry to distribution system	Ion Exchange softening			
Hardness	Daily	Entry to distribution system		Clarification	Lime Softening	
Hardness	As necessary for control		Ion Exchange softening			
Iron	As necessary for control	Filter influent and effluent	Iron removal	Clarification	Lime softening	
pH	As necessary for control	Entry to distribution system	Iron removal	Clarification	Lime softening	
pH	As necessary for control	Raw water	Clarification			
pH	As necessary for control	Filter effluent	Iron removal			
pH	As necessary for control	Primary and secondary basins	Lime softening			
pH(7)	As necessary for control	Entry to distribution system				

Phosphate (6)	**As necessary for control**	**Downstream from point of application**				
Sludge Concentration (9)	**As necessary for control**	**Center cone and sludge blowoff and sample taps**	**Clarification**	**Lime softening**		
Temperature (7)	**As necessary for control**	**Entry to distribution system**	**Disinfection**	**Iron removal**	**Clarification**	**Lime softening**
Turbidity(8)	**Every four (4) hours**	**Combined filter effluent**				
Turbidity (8)	**continuously**	**Individual filter effluent**				
Turbidity	**As necessary for control**	**Entry point to distribution and filter influent**	**Iron removal**	**Clarification**	**Lime softening**	

(1) Surface water and Groundwater under the Direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025 serving >3,300 population.
(2) Surface water, ground water under the direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025 serving <3,300 population. Lime softening, iron removal and systems directed by a compliance agreement to disinfect.
(3) All public water systems that add a chlorine disinfectant.
(4) Systems not required to disinfect. This excludes Surface water, Ground water under the direct influence of surface water, compliance monitoring systems under 10 CSR 60-4.025, lime softening, iron removal and systems directed by a compliance agreement to disinfect. An alternate frequency may be agreed upon in writing by the water system and the department, if warranted.
(5) If ion exchange softening is required of water system to meet national primary drinking water standards (ie. lead, radionuclides).
(6) If phosphate compounds are added to the water.
(7) Surface water and Groundwater under the Direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025.
(8) Surface water and Groundwater under the Direct influence of surface water.
(9) For facilities utilizing solids contact basins.

[(4) The department, at its discretion, may conduct routine inspections of any public water system or make other necessary inspections to determine compliance with these rules.]

*[(5)]***(4)** If, after investigation, the department finds that any public water system is incompetently supervised, improperly operated, inadequate, of defective design or if the water fails to meet standards established in these rules, the water supplier must implement changes that may be required by the department.

*[(6)]***(5)** Every supplier of water to a public water system must disinfect all newly constructed or repaired water distribution mains, finished water storage facilities or wells by methods acceptable to the department before being placed in or returned to service.

*[(7)]***(6)** All finished water reservoirs must be covered by a permanent, protective material, adequately vented with properly screened openings.

*[(8)]***(7)** Chemicals, materials and protective coatings used in public water systems must be acceptable to the department.

*[(9)]***(8)** Public water systems must maintain a minimum positive pressure of twenty pounds per square inch (20 psi) throughout the distribution system under all normal operating conditions.

[(10) Within thirty (30) days, public water systems must inform the department of a change of the person in charge of the water system.]

*[(11)]***(9)** A supplier of water that adds fluoride to the water system must submit *[two (2) samples per month]* **one (1) sample per quarter** for analyses to *[the Department of Health Laboratory or another]* **an** approved laboratory.

*AUTHORITY: section 640.100, RSMo [1994] **2016**. Original rule filed May 4, 1979, effective Sept. 14, 1979. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED RESCISSION

10 CSR 60-4.090 Maximum Contaminant Levels and Monitoring Requirements for Disinfection By-Products. This rule established the maximum contaminant levels and monitoring requirements for total trihalomethanes and other disinfection by-products.

PURPOSE: This rule is being rescinded as the requirements for complying with this rule are set forth in 10 CSR 60-4.094.

AUTHORITY: section 640.100, RSMo Supp. 2008. Original rule filed April 14, 1981, effective Oct. 11, 1981. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.094 ***Disinfectant Residuals, Disinfection Byproduct Precursors and the*** **Stage 2 Disinfectants/Disinfection** *[By-Products]* ***Byproducts Rule***. The department is amending the title by correcting the word "byproducts" and everywhere thereafter, adding subpart L in the purpose statement, deleting sunset language from section (1)(C), moving subsections (1)(D) through (1)(E) to paragraphs (3)(A)5.–7., deleting sunset language from section (2), renumbering thereafter, moving the Routine Monitoring table from paragraph (2)(A)2. to (2)(C)2., adding language in subsection (1)(C) and continuing in subsections (2)(A), (2)(B), and (2)(C). The term "you" is being replaced to indicate the "system" as applicable starting in subparagraph (2)(C)1.A. Subsection (2)(B) is being deleted with renumbering thereafter. Parts (2)(C)1.B.(II) through subparagraph (2)(C)1.D. removes sunset language, adding language, and a correct citation. Moving subparagraph (2)(C)1.E., amending paragraphs (2)(C)3. Reduced Monitoring and (2)(C)4. Increased Monitoring, amending language in subsections (3)(A) through (3)(D), the Operational Evaluation Levels in subsection (3)(E) is amended, and deleting language in sections (8) and (9) with the renumbering of section (10) to subsection (3)(F).

PURPOSE: The amendment corrects the purpose statement, removes language that has sunset, moves sections of 10 CSR 60-4.090 which is proposed to be rescinded, removes redundant language found in 10 CSR 60-5.010, adds clarifying language and corrects citations to other regulations.

PURPOSE: This rule establishes monitoring and other requirements for achieving compliance with maximum contaminant levels based on locational running annual averages for certain disinfection [by-products] ***byproducts*** *and for achieving compliance with maximum residual disinfectant levels for chlorine and chloramine for certain consecutive systems. This rule incorporates the requirements of subparts* ***L and*** *V of 40 CFR part 141, Stage 2 Disinfectants/Disinfection [By-Products]* ***Byproducts****, published in the January 4, 2006,* ***Federal Register****.*

(1) Stage 2 Disinfectants/Disinfection *[By-Products]* **Byproducts** (D/DBP) Rule General Requirements.

[(C) Compliance Schedules.

1. Systems must comply with the requirements in this rule on the following schedule. The department may grant up to an additional twenty-four (24) months beyond the deadlines specified below for compliance with maximum contaminant levels (MCL) and operational evaluation levels if capital improvements are required to comply with an MCL.

A. Systems that are not part of a combined distribution system and systems that serve the largest population in the combined distribution system.

(I) Systems serving ≥ 100,000 population must comply with this rule by April 1, 2012.

(II) Systems serving 50,000–99,999 population must comply with this rule by October 1, 2012.

(III) Systems serving 10,000–49,999 population must comply with this rule by October 1, 2013.

(IV) Systems serving < 10,000 population must comply with this rule by October 1, 2013, if no Cryptosporidium monitoring is required under 10 CSR 60-4.052(2)(A)4. or October 1, 2014, if Cryptosporidium monitoring is required under 10 CSR 60-4.052(2)(A)4.

B. Other systems that are part of a combined distribution system. Consecutive system or wholesale system must comply with this rule at the same time as the system with the earliest compliance date in the combined distribution system.

2. Monitoring frequency is specified in paragraph (2)(A)2. of this rule.

A. If you are required to conduct quarterly monitoring, you must begin monitoring in the first full calendar quarter that includes the applicable compliance date in paragraph (1)(C)1. of this rule.

B. If you are required to conduct monitoring at a frequency that is less than quarterly, you must begin monitoring in the calendar month recommended in the Initial Distribution System Evaluation (IDSE) report prepared under Standard Monitoring or the System Specific studies in 40 CFR part 141 subpart U, incorporated by reference in 10 CSR 60-4.092, or the calendar month identified in the monitoring plan developed under section (3) of this rule no later than twelve (12) months after the compliance date in this table.

3. If you are required to conduct quarterly monitoring, you must make compliance calculations at the end of the fourth calendar quarter that follows the compliance date and at the end of each subsequent quarter (or earlier if the LRAA calculated based on fewer than four (4) quarters of data would cause the MCL to be exceeded regardless of the monitoring

results of subsequent quarters). If you are required to conduct monitoring at a frequency that is less than quarterly, you must make compliance calculations beginning with the first compliance sample taken after the compliance date.

4. For the purpose of the schedule in paragraph (1)(C)1. of this rule, the department may determine that the combined distribution system does not include certain consecutive systems based on factors such as receiving water from a wholesale system only on an emergency basis or receiving only a small percentage and small volume of water from a wholesale system. The department may also determine that the combined distribution system does not include certain wholesale systems based on factors such as delivering water to a consecutive system only on an emergency basis or delivering only a small percentage and small volume of water to a consecutive system.

(D) Monitoring and Compliance.

1. Systems required to monitor quarterly. To comply with MCLs in section 10 CSR 60-4.090(1)(D) you must calculate LRAAs for TTHM and HAA5 using monitoring results collected under this rule and determine that each LRAA does not exceed the MCL. If you fail to complete four (4) consecutive quarters of monitoring, you must calculate compliance with the MCL based on the average of the available data from the most recent four (4) quarters. If you take more than one (1) sample per quarter at a monitoring location, you must average all samples taken in the quarter at that location to determine a quarterly average to be used in the LRAA calculation.

2. Systems required to monitor yearly or less frequently. To determine compliance with the Stage 2 D/DBP MCLs in subsection 10 CSR 60-4.090(1)(D), you must determine that each sample taken is less than the MCL. If any sample exceeds the MCL, you must comply with the requirements of section (6) of this rule. If no sample exceeds the MCL, the sample result for each monitoring location is considered the LRAA for that monitoring location.

(E) Violation. You are in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if you fail to monitor.

(2) Routine Monitoring.

(A) Monitoring.

1. If you submitted an IDSE report, you must begin monitoring at the locations and months you have recommended in your IDSE report submitted under the monitoring location recommendations and chart in 40 CFR part 141 subpart U, which is incorporated by reference in 10 CSR 60-4.092, following the schedule in subsection (1)(C) of this rule, unless the department requires other locations or additional locations after its review. If you submitted a 40/30 certification or qualified for a very small system waiver under 40 CFR part 141 subpart U, which is incorporated by reference in 10 CSR 60-4.092, or you are a nontransient noncommunity water system serving less than ten thousand (10,000) population, you must monitor at the location(s) and dates identified in your monitoring plan under 10 CSR 60-4.090(3)(A)3., updated as required by section (3) of this rule.

2. You must monitor at no fewer than the number of locations identified in the following table.

Stage 2 D/DBP Routine Monitoring

Source water type	*Population size category*	*Monitoring Frequency*[1]	*Distribution system monitoring location total per monitoring period* [2]
Surface water system or ground water under the direct influence of surface water:	*< 500*	*Per year*	*2*
	500–3,300	*Per quarter*	*2*
	3,301–9,999	*Per quarter*	*2*
	10,000–49,999	*Per quarter*	*4*
	50,000–249,999	*Per quarter*	*8*
	250,000–999,999	*Per quarter*	*12*
	1,000,000–4,999,999	*Per quarter*	*16*
	≥ 5,000,000	*Per quarter*	*20*
Ground water:	*< 500*	*Per year*	*2*
	500–9,999	*Per year*	*2*
	10,000–99,999	*Per quarter*	*4*
	100,000–499,999	*Per quarter*	*6*
	≥ 500,000	*Per quarter*	*8*

1 All systems must monitor during month of highest DBP concentrations.
2 Systems on quarterly monitoring must take dual sample sets every 90 days at each monitoring location, except for surface water systems or ground water under the direct influence of surface water serving 500–3,300. Systems on annual monitoring and surface water systems or ground water under the direct influence of surface water serving 500–3,300 are required to take individual TTHM and HAA5 samples (instead of a dual sample set) at the location with the highest TTHM and HAA5 concentrations, respectively. Only one (1) location with a dual sample set per monitoring period is needed if the highest TTHM and HAA5 concentrations occur at the same location (and month, if monitored annually).

3. If you are an undisinfected systems that begins using a disinfectant other than ultraviolet (UV) light after the dates in 40 CFR part 141 subpart U for complying with the Initial Distribution System Evaluation requirements, you must consult with the department to identify compliance monitoring locations for this rule. You must then develop a monitoring plan under section (3) of this rule that includes those monitoring locations.

(B) Analytical methods. You must use an approved method listed in 10 CSR 60-5.010 for TTHM and HAA5 analyses. Analyses must be conducted by laboratories that have received certification by Environmental Protection Agency (EPA) or the department as specified in 10 CSR 60-5.010.]

(C) Community water systems and nontransient noncommunity water systems must comply with maximum residual disinfectant levels (MRDLs), monitoring and compliance requirements of this rule, and the MCLs of 0.080 mg/L for total triahalomethanes (TTHM), 0.060 mg/L for haloacetic acids (five) (HAA5), 0.010 mg/L for bromate, and 1.0 mg/L for chlorite.

(2) Monitoring Requirements

(A) Disinfectant Residuals, Chlorite, and Bromate Monitoring Requirements.

1. Chlorine and chloramines.

A. Routine monitoring. Community and nontransient noncommunity water systems must measure the residual disinfectant level at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in 10 CSR 60-4.022. Systems using surface water or ground water under the direct influence of surface water may use the results of residual disinfectant concentration sampling conducted under 10 CSR 60-4.080(3) and 10 CSR 60-4.055(4), in lieu of taking separate samples.

B. Reduced monitoring. Monitoring may not be reduced.

2. Chlorine dioxide.

A. Routine monitoring. Community, nontransient noncommunity, and transient noncommunity water systems that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that detects chlorine dioxide, the system must take additional samples in the distribution system the following day in addition to the sample required at the entrance to the distribution system.

B. Additional monitoring. On each day following a routine sample monitoring result that detects chlorine dioxide, the system is required to take three (3) chlorine dioxide distribution system samples as close to the first customer as possible, at intervals of at least six (6) hours. If chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (that is, no booster chlorination), the system must take three (3) samples as close to the first customer as possible, at intervals of at least six (6) hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one (1) or more disinfection addition points after the entrance to the distribution system (that is, booster chlorination), the system must take one (1) sample at each of the following locations: as close to the first customer as possible; in a location representative of average residence time; and as close to the end of

the distribution system as possible (reflecting maximum residence time in the distribution system).

C. Reduced monitoring. Chlorine dioxide monitoring may not be reduced.

3. Chlorite.

A. Routine monitoring. Community and nontransient noncommunity water systems using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(I) Daily Monitoring. Systems must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system must take additional samples in the distribution system the following day at the following locations: near the first customer; at a location representative of average residence time; and at a location reflecting maximum residence time in the distribution system, in addition to the sample required at the entrance to the distribution system.

(II) Monthly monitoring. Systems must take a three (3)-sample set each month in the distribution system. The system must take one (1) sample at each of the following locations: near the first customer; at a location representative of average residence time; and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three (3)-sample sets, at the specified locations). The system may use the results of additional monitoring conducted under the following subparagraph (2)(A)3.B. to meet the requirement for monthly monitoring.

B. Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system is required to take three (3) chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

C. Reduced monitoring.

(I) Chlorite monitoring at the entrance to the distribution system required by part (2)(A)3.A.(I) of this rule may not be reduced.

(II) Chlorite monitoring in the distribution system required by part (2)(A)3.A.(II) of this rule may be reduced to one (1) three (3)-sample set per quarter after one (1) year of monitoring where no individual chlorite sample taken in the distribution system under part (2)(A)3.A.(II) of this rule has exceeded the chlorite MCL and the system has not been required to conduct monitoring under subparagraph (2)(A)3.B. of this rule. The system may remain on the reduced monitoring schedule until either any of the three (3) individual chlorite samples taken quarterly in the distribution system under part (2)(A)3.A.(II) of this rule exceeds the chlorite MCL or the system is required to conduct monitoring under subparagraph (2)(A)3.B. of this rule, at which time the system must revert to routine monitoring.

4. Bromate.

A. Routine monitoring. Community and nontransient noncommunity systems using ozone for disinfection or oxidation must take one (1) sample per month for each treatment plant in the system using ozone. Systems must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

B. Reduced monitoring. A system required to analyze for bromate may reduce monitoring from monthly to quarterly, if the system's running annual average bromate concentration is less than or equal to 0.0025 mg/L based on monthly bromate measurements for the most recent four (4) quarters, with samples analyzed using Method 317.0 Revision 2.0, 326.0, or 321.8. If a system has qualified for reduced bromate monitoring, that system may remain on reduced monitoring as long as the running annual average of quarterly bromate samples is $\leq$0.0025 mg/L based on samples analyzed using Method 317.0 Revision 2.0, 326.0, or 321.8. If the running annual average bromate concentration is $>$0.0025 mg/L, the system must resume routine monitoring required by subparagraph (2)(A)4.A. of this rule.

(B) Disinfection Byproduct Precursors (DBPP) Monitoring Requirements.

1. Total Organic Carbon (TOC).

A. Routine Monitoring. Systems using surface water or ground water under the direct influence of surface water and using conventional filtration treatment must monitor each treatment plant for total organic carbon (TOC) no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. These systems must also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is taken, all systems must monitor for alkalinity in the source water prior to any treatment. Systems must take one (1) paired sample and one (1) source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

B. Reduced monitoring. Systems using surface water or ground water under the direct influence of surface water with an average treated water TOC of less than 2.0 mg/L for two (2) consecutive years, or less than 1.0 mg/L for one (1) year, may reduce monitoring for both TOC and alkalinity to one (1) paired sample and one (1) source water alkalinity sample per plant per quarter. The system must revert to routine monitoring in the month following the quarter when the annual average treated water TOC greater than or equal to 2.0 mg/L.

2. Bromide. Systems required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly measurements for one (1) year. The system must continue bromide monitoring to remain on reduced bromate monitoring.

(C) Total Trihalomethane and Haloacetic Acid Monitoring Requirements.

1. General Requirements.

A. Undisinfected systems that begin*s* using a disinfectant other than ultraviolet (UV) light must consult with the department to identify compliance monitoring locations for this rule. Systems must then develop a monitoring plan that includes those monitoring locations.

*[(3)]***B.** Stage 2 D/DBP *[Rule]* **Compliance** Monitoring Plan.

*[(A)]***(I)** Developing and implementing a monitoring plan.

[1. You] **The system** must develop and implement a monitoring plan to be kept on file for department and public review. **Unless otherwise directed by the department,** *[T]***t**he monitoring plan must contain the following elements and be complete no later than the date *[you conduct your]* initial monitoring under this rule **is conducted**:

*[A.]***(a)** Monitoring locations;

*[B.]***(b)** Monitoring dates;

*[C.]***(c)** Compliance calculation procedures; and

*[D.]***(d)** Monitoring plans for any other systems in the combined distribution system if the department has reduced monitoring requirements.

[2. If you were not required to submit an IDSE report under either Standard Monitoring or System Specific Studies in 40 CFR part 141 subpart U, and you do not have sufficient Stage 1 D/DBP rule monitoring locations to identify the required number of Stage 2 D/DBP rule compliance monitoring locations indicated in the Monitoring Location Recommendations table in 40 CFR part 141 subpart U, you must identify additional locations by alternating selection of locations representing high TTHM levels and high HAA5 levels until the required number of compliance monitoring locations have been identified. You must also provide the rationale for

identifying the locations as having high levels of TTHM or HAA5. If you have more Stage 1 D/DBP rule monitoring locations than required for Stage 2 D/DBP rule compliance monitoring, detailed in the Monitoring Location Recommendations table in 40 CFR part 141 subpart U, you must identify which locations you will to use for Stage 2 D/DBP rule compliance monitoring by alternating selection of locations representing high TTHM levels and high HAA5 levels until the required number of Stage 2 D/DBP rule compliance monitoring locations have been identified.

(B) If you are a surface water system or ground water under the direct influence of surface water system serving greater than three thousand three hundred (>3,300) people, you must submit a copy of your monitoring plan to the department prior to the date you conduct your initial monitoring under this rule, unless your IDSE report submitted under 40 CFR part 141 subpart U contains all the information required by section (3) of this rule.]

(II) The system must identify which locations to use for Stage 2 D/DBP rule compliance monitoring by alternating selection of locations representing high TTHM levels and high HAA5 levels until the required number of Stage 2 D/DBP rule compliance monitoring locations have been identified.

(III) The system must submit a copy of the monitoring plan to the department prior to the date the system conducts the initial monitoring under this rule.

*[(C)]***(IV)** *[You]* **A system** may revise *[your]* **the** monitoring plan to reflect changes in treatment, distribution system operations and layout (including new service areas), or other factors that may affect TTHM or HAA5 formation, or for department-approved reasons, after consultation with the department regarding the need for changes and the appropriateness of changes. If *[you]* the system** change**s** monitoring locations, *[you]* **the system** must replace existing compliance monitoring locations with the lowest LRAA with new locations that reflect the current distribution system locations with expected high TTHM or HAA5 levels. The department may also require modifications in *[your]* **the system's** monitoring plan. *[If you are a surface water system or ground water under the direct influence of surface water system serving greater than three thousand three hundred (>3,300) people, you]* **The system** must submit a copy of *[your]* **the** modified monitoring plan to the department prior to the date *[you are]* **the system is** required to comply with the revised monitoring plan.

C. Monitoring must begin at the locations and months the system has recommended in the Stage 2 D/DBP Compliance Monitoring Plan unless the department requires other locations or additional locations after its review.

D. Analytical methods. The system must use an approved method listed in 10 CSR 60-5.010 for TTHM and HAA5 analyses. Analyses must be conducted by laboratories that have received certification by Environmental Protection Agency (EPA) or the department as specified in 10 CSR 60-5.020.

E. Additional Requirements for Consecutive Systems. If the system is a consecutive system that does not add a disinfectant but delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light, the system must comply with analytical and monitoring requirements for chlorine and chloramines in 10 CSR 60-5.010 and 10 CSR 60-4.055(4)(E), the compliance requirements in 10 CSR 60-4.094(3)(B.)1. and report monitoring results under 10 CSR 60-7.010(5)(B).

Stage 2 D/DBP Routine Monitoring

Source water type	Population size category	Monitoring Frequency[1]	Distribution system monitoring location total per monitoring period [2]
Surface water system or ground water under the direct influence of surface water:	**<500**	**Per year**	**2**
	500–3,300	**Per quarter**	**2**
	3,301–9,999	**Per quarter**	**2**
	10,000–49,999	**Per quarter**	**4**
	50,000–249,999	**Per quarter**	**8**
	250,000–999,999	**Per quarter**	**12**
	1,000,000–4,999,999	**Per quarter**	**16**
	5,000,000	**Per quarter**	**20**
Ground water:	**<500**	**Per year**	**2**
	500–9,999	**Per year**	**2**
	10,000–99,999	**Per quarter**	**4**
	100,000–499,999	**Per quarter**	**6**
	500,000	**Per quarter**	**8**

[1] All systems must monitor during month of highest DBP concentrations.

[2] Systems on quarterly monitoring must take dual sample sets every 90 days at each monitoring location, except for surface water systems or ground water under the direct influence of surface water serving 500–3,300. Groundwater systems serving 500-9,999 on annual monitoring must take dual sample sets at each monitoring location. All other systems on annual monitoring and surface water systems or ground water under the direct influence of surface water serving 500–3,300 are required to take individual TTHM and HAA5 samples (instead of a dual sample set) at the location with the highest TTHM and HAA5 concentrations, respectively. For systems serving fewer than five hundred (500) people, one (1) location with a dual sample set per monitoring period is needed if the highest TTHM and HAA5 concentrations occur at the same location.

*[(4)]***2.** Reduced Monitoring.

A. Monitoring requirements for source water TOC. In order to qualify for reduced monitoring for TTHM and HAA5, surface water and ground water under the direct influence of surface water (GWUDISW) systems not monitoring under the TOC reduced monitoring provisions, must take monthly TOC samples every thirty (30) days at a location prior to any treatment. Once qualified for reduced monitoring for TTHM and HAA5, a system may reduce source water TOC monitoring to quarterly TOC samples taken every ninety (90) days at a location prior to any treatment.

*[(A)]***B.** *[You]* **The system** may reduce monitoring *[to the level specified in this subsection (4)(A)]* any time the LRAA is $\leq$0.040 mg/L for TTHM and $\leq$0.030 mg/L for HAA5 at all monitoring locations. *[You may only use data collected under the provisions of this rule or the Stage 1 D/DBP rule to qualify for reduced monitoring.]* In addition, the source water annual average *[total organic carbon (]*TOC*[)]* level, before any treatment, must be $\leq$4.0 mg/L at each treatment plant treating surface water or ground water under the direct influence of surface water*[, based on monitoring conducted under either 10 CSR 60-4.090(3)(B)1.C. or 10 CSR 60-4.090(3)(D)]*.

Stage 2 D/DBP Reduced Monitoring

Source water type	Population size category	Monitoring Frequency[1]	Distribution system monitoring location per monitoring period
Surface water system or ground water under the direct influence of surface water:	<500	.....	Monitoring may not be reduced.
	500–3,300	Per year	1 TTHM and 1 HAA5 sample: one at the location and during the quarter with the highest TTHM single measurement; one at the location and during the quarter with the highest HAA5 single measurement; and 1 dual sample set per year if the highest TTHM and HAA5 measurements occurred at the same location and quarter.
	3,301–9,999	Per year	2 dual sample sets: one at the location and during the quarter with the highest TTHM single measurement; and one at the location and during the quarter with the highest HAA5 single measurement.
	10,000–49,999	Per quarter	2 dual sample sets at the locations with the highest TTHM and highest HAA5 LRAAs.
	50,000–249,999	Per quarter	4 dual sample sets—at the locations with the two highest TTHM and two highest HAA5 LRAAs.
	250,000–999,999	Per quarter	6 dual sample sets—at the locations with the three highest TTHM and three highest HAA5 LRAAs.
	1,000,000–4,999,999	Per quarter	8 dual sample sets—at the locations with the four highest TTHM and four highest HAA5 LRAAs.
	≥5,000,000	Per quarter	10 dual sample sets—at the locations with the five highest TTHM and five highest HAA5 LRAAs.
Ground water:	<500	Every third year	1 TTHM and 1 HAA5 sample: one at the location and during the quarter with the highest TTHM single measurement; one at the location and during the quarter with the highest HAA5 single measurement; and 1 dual sample set per year if the highest TTHM and HAA5 measurements occurred at the same location and quarter.
	500-9,999	Per year	1 TTHM and 1 HAA5 sample: one at the location and during the quarter with the highest TTHM single measurement; one at the location and during the quarter with the highest HAA5 single measurement; and 1 dual sample set per year if the highest TTHM and HAA5 measurements occurred at the same location and quarter.
	10,000-99,999	Per year	2 dual sample sets: one at the location and during the quarter with the highest TTHM single measurement; and one at the location and during the quarter with the highest HAA5 single measurement.
	100,000-499,999	Per quarter	2 dual sample sets; at the locations with the highest TTHM and highest HAA5 LRAAs.
	≥500,000	Per quarter	4 dual sample sets at the locations with the two highest TTHM and two highest HAA5 LRAAs.

[1]Systems on quarterly monitoring must take dual sample sets every 90 days.

*[(B)]***C.** *[You]* **The system** may remain on reduced monitoring as long as the TTHM LRAA ≤0.040 mg/L and the HAA5 LRAA ≤0.030 mg/L at each monitoring location (for systems with quarterly reduced monitoring) or each TTHM sample ≤0.060 mg/L and each HAA5 sample ≤0.045 mg/L (for systems with annual or less frequent monitoring). In addition, the source water annual average TOC level, before any treatment, must be ≤4.0 mg/L at each treatment plant treating surface water or ground water under the direct influence of surface water*[, based on monitoring conducted under either 10 CSR 60-4.090 (3)(B)1.C. or 10 CSR 60-4.090(3)(D)]*.

*[(C)]***D.** If the LRAA based on quarterly monitoring at any monitoring location exceeds either 0.040 mg/L for TTHM or 0.030 mg/L for HAA5 or if the annual (or less frequent) sample at any location exceeds either 0.060 mg/L for TTHM or 0.045 mg/L for HAA5, or if the source water annual average TOC level, before any treatment, >4.0 mg/L at any treatment plant treating surface water or ground water under the direct influence of surface water, *[you]* **the system** must resume routine monitoring under section 10 CSR 60-4.094(2)(C)2. or begin increased monitoring if *[section]* **paragraph** 10 CSR 60-4.094*[(6)]***(2)(C)4.** applies.

*[(D)]***E.** The department may return *[your]* **the** system to routine monitoring at the department's discretion.

[(5) Additional Requirements for Consecutive Systems. If you are a consecutive system that does not add a disinfectant but delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light, you must comply with analytical and monitoring requirements for chlorine and chloramines in 10 CSR 60-5.010 and 10 CSR 60-4.055(4)(E) and the compliance requirements in 10 CSR 60-4.090(4)(C)1. beginning April 1, 2009, unless required earlier by the department, and report monitoring results under 10 CSR 60-7.010(6)(C).]

*[(6)]***3.** *[Conditions Requiring]* Increased Monitoring.

*[(A)]***A.** If *[you are]* **the system is** required to monitor at a particular location annually or less frequently than annually under *[section (2) or (4)]* **routine or reduced monitoring** of this rule, *[you]* **the system** must increase monitoring to dual sample sets once per quarter (taken every ninety (90) days) at all locations if a TTHM sample is >0.080 mg/L or an HAA5 sample is >0.060 mg/L at any location.

*[(B)]***B.** *[You are]* **The system is** in violation of the MCL when the LRAA exceeds the Stage 2 D/DBP rule MCLs in *[subsection]* **subparagraph** 10 CSR *[60-4.090[(1)(D)]***60-4.094(3)(D)3.A.**, calculated based on four (4) consecutive quarters of monitoring (or the LRAA calculated based on fewer than four (4) quarters of data if the MCL would be exceeded regardless of the monitoring results of subsequent quarters). *[You are]* **The system is** in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if *[you]* **the system** fails to monitor.

*[(C)]***C.** *[You]* **The system** may return to routine monitoring once *[you have]* **the system has** conducted increased monitoring for at least four (4) consecutive quarters and the LRAA for every monitoring location is ≤0.060 mg/L for TTHM and ≤0.045 mg/L for HAA5.

(3) Compliance Requirements.

(A) General Requirements.

1. Where compliance is based on a locational running annual average (LRAA) or running annual average (RAA) of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

2. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

3. All samples taken and analyzed under the provisions of this rule must be included in determining compliance, even if that number is greater than the minimum required.

4. If, during the first year of monitoring, any individual quarter's average will cause the running annual average of that system to exceed the MCL, the system is out of compliance at the end of that quarter.

5. Systems required to monitor quarterly. To comply with MCLs in paragraph 10 CSR 60-4.094(2)(C)1.the system must calculate LRAAs for TTHM and HAA5 using monitoring results collected under this rule and determine that each LRAA does not exceed the MCL. If the system fails to complete four (4) consecutive quarters of monitoring, the system must calculate compliance with the MCL based on the average of the available data from the most recent four (4) quarters. If the system takes more than one (1) sample per quarter at a monitoring location, the system must average all samples taken in the quarter at that location to determine a quarterly average to be used in the LRAA calculation.

6. Systems required to monitor yearly or less frequently. To determine compliance with the Stage 2 D/DBP MCLs in subparagraph 10 CSR 60-4.094(3)(D)3.A., the system must determine that each sample taken is less than the MCL. If any sample exceeds the MCL, the system must comply with the requirements of increased monitoring of this rule. If no sample exceeds the MCL, the sample result for each monitoring location is considered the LRAA for that monitoring location.

7. Violation. If a system fails to monitor, the system is in violation of the monitoring requirements for each quarter or monitoring period that a monitoring result would be used in calculating a LRAA for TTHM and HAA5 or RAA for bromate or chlorite.

(B) Disinfectant Residuals, Chlorite, and Bromate.

1. Chlorine and chloramines.

A. Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system under paragraph (2)(A)1. of this rule. If the average covering any consecutive four (4)-quarter period exceeds the MRDL, the system is in violation of the MRDL and must notify the public pursuant to 10 CSR 60-8.010, in addition to reporting to the department pursuant to 10 CSR 60-7.010.

B. In cases where systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance must be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted pursuant to 10 CSR 60-7.010(5) must clearly indicate which residual disinfectant was analyzed for each sample.

2. Chlorine dioxide.

A. Acute violations. Compliance must be based on consecutive daily samples collected by the system under subparagraph (2)(A)2.A. of this rule. If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (1) (or more) of the three (3) samples taken in the distribution system exceed the MRDL, the system is in violation of the MRDL and must take immediate corrective action to lower the level of chlorine dioxide below the MRDL and must notify the public pursuant to the procedures for acute health risks in 10 CSR 60-8.010(2), in addition to reporting to the department pursuant to 10 CSR 60-7.010. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be

considered an MRDL violation and the system must notify the public of the violation in accordance with the provisions for acute violations under 10 CSR 60-8.010(2), in addition to reporting to the department pursuant to 10 CSR 60-7.010.

B. Nonacute violations. Compliance must be based on consecutive daily samples collected by the system in compliance with this rule.

(I) If any two (2) consecutive daily samples taken at the entrance to the distribution system detect chlorine dioxide, the system must take corrective action to lower the chlorine dioxide level.

(II) If any two (2) consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the system is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and notify the public pursuant to the procedures for nonacute health risks in 10 CSR 60-8.010(3), in addition to reporting to the department pursuant to 10 CSR 60-7.010. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the system must notify the public of the violation in accordance with the provisions for nonacute violations in 10 CSR 60-8.010(3), in addition to reporting to the department pursuant to 10 CSR 60-7.010.

(C) Disinfection Byproduct Precursors (DBPP).

1. Systems using surface water or ground water under the direct influence of surface water and using conventional filtration treatment must operate with enhanced coagulation or enhanced softening to achieve the TOC percent removal levels specified in this rule unless the system meets at least one (1) of the alternative compliance criteria listed here. These systems must still comply with monitoring and compliance requirements of this rule. The alternative compliance criteria for enhanced coagulation and enhanced softening are:

A. The system's source water TOC level, measured according to 10 CSR 60-5.010, is less than 2.0 mg/L, calculated quarterly as a running annual average;

B. The system's treated water TOC level, measured according to 10 CSR 60-5.010, is less than 2.0 mg/L, calculated quarterly as a running annual average;

C. The system's source water TOC level, measured according to 10 CSR 60-5.010, is less than 4.0 mg/L, calculated quarterly as a running annual average; the source water alkalinity, measured according to 10 CSR 60-5.010, is greater than sixty (60) mg/L (as $CaCO_3$), calculated quarterly as a running annual average; and either the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively; or prior to the effective date for compliance with this rule, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance with this rule to use technologies that will limit the levels of TTHMs and HAA5 to no more than 0.040 mg/L and 0.030 mg/L, respectively. Systems must submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the department for approval not later than the effective date for compliance with this rule. These technologies must be installed and operating not later than June 30, 2005. Failure to install and operate these technologies by the date in the approved schedule will constitute a violation;

D. The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system;

E. The system's source water SUVA, prior to any treatment and measured monthly according to 10 CSR 60-5.010, is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average. SUVA refers to Specific Ultraviolet Absorption at two hundred fifty-four nanometers (254 nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/L); and

F. The system's finished water SUVA, measured monthly according to 10 CSR 60-5.010, is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

2. Additional alternative compliance criteria for softening systems. Systems practicing enhanced softening that cannot achieve the Step 1 TOC removals may use the alternative compliance criteria listed here in lieu of complying with paragraph (3)(C)3. of this rule. Systems must still comply with monitoring and compliance requirements of this rule.

A. Softening that results in lowering the treated water alkalinity to less than sixty (60) mg/L (as $CaCO_3$), measured monthly according to 10 CSR 60-5.010 and calculated quarterly as a running annual average.

B. Softening that results in removing at least ten (10) mg/L of magnesium hardness (as $CaCO_3$), measured monthly according to 10 CSR 60-5.010 and calculated quarterly as an annual running average.

3. Enhanced coagulation and enhanced softening performance requirements.

A. Systems must achieve the percent reduction of TOC specified in Table 1 between the source water and the combined filter effluent, unless the department approves a system's request for alternate minimum TOC removal (Step 2) requirements. Systems may begin monitoring to determine whether Step 1 TOC removals can be met twelve (12) months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any system that does not monitor during this period, and then determines in the first twelve (12) months after the compliance date that it is not able to meet the Step 1 requirements and must therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements and is in violation. Systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For systems required to meet Step 1 TOC removals, if the value calculated under part (3)(C)4.A.(IV) of this rule is less than 1.00, the system is in violation of the treatment technique requirements and must notify the public pursuant to 10 CSR 60-8.010 in addition to reporting to the department pursuant to 10 CSR 60-7.010.

B. Required Step 1 TOC reductions, indicated in the following table, are based upon specified source water parameters measured in accordance with 10 CSR 60-5.010. Systems practicing softening are required to meet the Step 1 TOC reductions in the far right column (Source water alkalinity >120 mg/L) for the specified source water TOC.

Table 1: Required Step 1 TOC Reduction

Step 1 Required Removal of TOC by Enhanced Coagulation and Enhanced Softening for Surface Water and GWUDISW Systems Using Conventional Treatment[1,2]			
	Source water alkalinity, mg/L as $CaCO_3$		
Source water TOC, mg/L	0–60	>60–120	>120[3]
>2.0–4.0	35.0%	25.0%	15.0%
>4.0–8.0	45.0%	35.0%	25.0%
>8.0	50.0%	40.0%	30.0%

[1]Systems meeting at least one (1) of the conditions in paragraph (3)(C)1. of this rule are not required to operate with enhanced

coagulation.

[2]Softening systems meeting one (1) of the alternative compliance criteria in paragraph (3)(C)1. of this rule are not required to operate with enhanced softening.

[3]Systems practicing softening must meet the TOC removal requirements in this column.

C. Conventional treatment systems using surface water or ground water under the direct influence of surface water that cannot achieve the Step 1 TOC removals due to water quality parameters or operational constraints must apply to the department, within three (3) months of failure to achieve the Step 1 TOC removals, for approval of alternative minimum TOC removal (Step 2) requirements submitted by the system. If the department approves the alternative minimum TOC removal (Step 2) requirements, the department may make those requirements retroactive for the purposes of determining compliance. Until the department approves the alternate minimum TOC removal (Step 2) requirements, the system must meet the Step 1 TOC removals.

D. Alternate minimum TOC removal (Step 2) requirements. Applications made to the department by enhanced coagulation systems for approval of alternative minimum TOC removal (Step 2) requirements under subparagraph (3)(C)3.C. of this rule must include, as a minimum, results of bench- or pilot-scale testing conducted under this subparagraph (3)(C)3.D. and used to determine the alternate enhanced coagulation level.

(I) Alternate enhanced coagulation level is defined as coagulation at a coagulant dose and pH as determined by the method described here such that an incremental addition of ten (10) mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to 0.3 mg/L. The percent removal of TOC at this point on the "TOC removal versus coagulant dose" curve is then defined as the minimum TOC removal required for the system. Once approved by the department, this minimum requirement supersedes the minimum TOC removal required by Table 1 of this rule. This requirement will be effective until such time as the department approves a new value based on the results of a new bench- and pilot-scale test. Failure to achieve department-set alternative minimum TOC removal levels is a violation.

(II) Bench- or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH shown in Table 2.

Table 2: Enhanced Coagulation
Step 2 Target pH

Alkalinity (mg/L as $CaCO_3$)	Target pH
0-60	5.5
>60-120	6.3
>120-240	7.0
>240	7.5

(III) For waters with alkalinities of less than sixty (60) mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the system must add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalent addition of iron coagulant) is reached.

(IV) The system may operate at any coagulant dose or pH necessary (consistent with other regulatory requirements) to achieve the minimum TOC percent removal approved under subparagraph (3)(C)3.C. of this rule.

(V) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalent addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The system may then apply to the department for a waiver of enhanced coagulation requirements.

4. Compliance calculations.

A. Systems using surface water or ground water under the direct influence of surface water, other than those identified in paragraphs (3)(C)1. or (3)(C)2. of this rule, must comply with requirements contained in subparagraphs (3)(C)3.B. or (3)(C)3.C. of this rule. Systems must calculate compliance quarterly, beginning after the system has collected twelve (12) months of data, by determining an annual average using the following method:

(I) Determine actual monthly TOC percent removal, equal to: (1 – (treated water TOC/source water TOC)) × 100;

(II) Determine the required monthly TOC percent removal;

(III) Divide the value in part (3)(C)4.A.(I) by the value in part (3)(C)4.A.(II); and

(IV) Add together the results of part (3)(C)4.A.(III) for the last twelve (12) months and divide by twelve (12). If the value calculated is less than 1.00, the system is not in compliance with the TOC percent removal requirements.

B. Systems may use the following provisions in lieu of the calculations in subparagraph (3)(C)4.A. of this rule to determine compliance with TOC percent removal requirements:

(I) In any month that the system's treated or source water TOC level, measured according to 10 CSR 60-5.010, is less than 2.0 mg/L, the system may assign a monthly value of 1.0 (in lieu of the value calculated in part (3)(C)4.A.(III) of this rule);

(II) In any month that a system practicing softening removes at least 10 mg/L of magnesium hardness (as $CaCO_3$), the system may assign a monthly value of 1.0 (in lieu of the value calculated in part (3)(C)4.A.(III) of this rule);

(III) In any month that the system's source water SUVA, prior to any treatment and measured according to 10 CSR 60-5.010, is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in part (3)(C)4.A.(III) of this rule);

(IV) In any month that the system's finished water SUVA, measured according to 10 CSR 60-5.010, is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in part (3)(C)4.A.(III) of this rule); and

(V) In any month that a system practicing enhanced softening lowers alkalinity below sixty (60) mg/L (as $CaCO_3$), the system may assign a monthly value of 1.0 (in lieu of the value calculated in part (3)(C)4.A.(III) of this rule).

C. Systems using conventional treatment and surface water or ground water under the direct influence of surface water may also comply with the requirements of this rule by meeting the criteria in paragraphs (3)(C)1. or (3)(C)2. of this rule.

(D) Disinfection Byproducts.

1. Bromate. Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples taken during the month) collected by the system as prescribed by paragraph (2)(A)4. of this rule. If the average of samples covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public pursuant to 10 CSR 60-8.010, in addition to reporting to the department pursuant to 10 CSR 60-7.010. If a PWS fails to complete twelve (12) consecutive months' monitoring, compliance with the MCL for the last four (4)-quarter compliance period must be based on an average of the available data.

2. Chlorite. Compliance must be based on an arithmetic average of each three (3) sample set taken in the distribution system as prescribed by item (2)(A)3.C.(II) and subparagraph

(2)(A)3.B. of this rule. If the arithmetic average of any three (3) sample set exceeds the MCL, the system is in violation of the MCL and must notify the public pursuant to 10 CSR 60-8.010, in addition to reporting to the department pursuant to 10 CSR 60-7.010.

3. Total Trihalomethane (TTHM) and Haloacetic Acid (HAA).

A. Stage 2 Disinfectants/Disinfection Byproducts—Locational Running Annual Average (LRAA) Compliance. The MCLs of 0.080 mg/L for TTHM and 0.060 mg/L for HAA5 must be complied with as a locational running annual average at each monitoring location.

B. If the system is required to conduct quarterly monitoring, the system must make compliance calculations at the end of the fourth calendar quarter that follows the compliance date and at the end of each subsequent quarter (or earlier if the LRAA calculated based on fewer than four (4) quarters of data would cause the MCL to be exceeded regardless of the monitoring results of subsequent quarters). If the system is required to conduct monitoring at a frequency that is less than quarterly, the system must make compliance calculations beginning with the first compliance sample taken after the compliance date.

C. The department may determine that the combined distribution system does not include certain consecutive systems based on factors such as receiving water from a wholesale system only on an emergency basis or receiving only a small percentage and small volume of water from a wholesale system. The department may also determine that the combined distribution system does not include certain wholesale systems based on factors such as delivering water to a consecutive system only on an emergency basis or delivering only a small percentage and small volume of water to a consecutive system.

*[(7)]***(E)** Operational Evaluation Levels.

*[(A)]***1.** *[You have]* **The system has** exceeded the operational evaluation level at any monitoring location where the sum of the two (2) previous quarters of TTHM results plus twice the current quarter's TTHM result, divided by four (4) to determine an average, exceeds 0.080 mg/L, or where the sum of the two (2) previous quarters of HAA5 results plus twice the current quarter's HAA5 result, divided by four (4) to determine an average, exceeds 0.060 mg/L.

*[(B)]***2.** If Operational Evaluation Levels are Exceeded.

*[1.]***A.** If *[you]* **the system** exceeds the operational evaluation level, *[you]* **the system** must conduct an operational evaluation and submit a written report of the evaluation to the department no later than ninety (90) days after being notified of the analytical result that causes *[you]* **the system** to exceed the operational evaluation level. The written report must be made available to the public upon request.

*[2.]***B.** *[Your]* **The system's** operational evaluation must include an examination of system treatment and distribution operational practices, including storage tank operations, excess storage capacity, distribution system flushing, changes in sources or source water quality, and treatment changes or problems that may contribute to TTHM and HAA5 formation and what steps could be considered to minimize future exceedences.

*[A.]***(I)** *[You]* **The system** may request and the department may allow *[you to]* **a** limit **to** the scope of *[your]* **the** evaluation if *[you are]* **the system is** able to identify the cause of the operational evaluation level exceedance.

*[B.]***(II)** *[Your]* **The system's** request to limit the scope of the evaluation does not extend the schedule in *[paragraph (7)(B)1.]* **subparagraph (3)(E)2.A.** of this rule for submitting the written report. The department must approve this limited scope of evaluation in writing, and *[you]* **the system** must keep that approval with the completed report.

[(8) Requirements for Remaining on Reduced TTHM and HAA5 Monitoring Based on Stage 1 D/DBP Rule Results. You may remain on reduced monitoring after the dates identified in subsection (1)(C) of this rule for compliance with this rule only if you qualify for a 40/30 certification under 40 CFR part 141 subpart U or have received a very small system waiver under 40 CFR part 141 subpart U, plus you meet the reduced monitoring criteria in subsection (4)(A) of this rule, and you do not change or add monitoring locations from those used for compliance monitoring under the Stage 1 D/DBP rule. If your monitoring locations under this rule differ from your monitoring locations under the Stage 1 D/DBP rule, you may not remain on reduced monitoring after the dates identified in subsection (1)(C) for compliance with this rule.

(9) Requirements for Remaining on Increased TTHM and HAA5 Monitoring Based on Stage 1 D/DBP Rule Results. If you were on increased monitoring under 10 CSR 60-4.090(3)(B)1., you must remain on increased monitoring until you qualify for a return to routine monitoring under subsection (6)(C) of this rule. You must conduct increased monitoring under section (6) of this rule at the monitoring locations in the monitoring plan developed under section (3) of this rule beginning at the date identified in subsection (1)(C) of this rule for compliance with this rule and remain on increased monitoring until you qualify for a return to routine monitoring under subsection (6)(C) of this rule.]

*[(10)]***(F)** Stage 2 D/DBP Reporting and Record-Keeping Requirements.

*[(A)]***1.** Reporting requirements are found in 10 CSR 60-7.010, Reporting Requirements.

*[(B)]***2.** Record-keeping requirements are found in 10 CSR 60-9.010, Requirements for Maintaining Public Water System Records.

*AUTHORITY: section 640.100, RSMo [Supp. 2008] **2016**. Original rule filed Feb. 27, 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65101 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

PROPOSED AMENDMENT

10 CSR 60-4.100 Maximum Volatile Organic Chemical Contaminant Levels and Monitoring Requirements. The department is removing sunset language in section (4) and renumbering thereafter; correcting citations in (5)(B); removing section (9) and renumbering thereafter.

PURPOSE: The amendment will remove language that has sunset and correct other regulation citations.

[(4) The department may allow the use of monitoring data collected after January 1, 1988, to satisfy the initial base sampling requirements. If the initial monitoring for all contaminants has been completed by December 31, 1992, in accordance with the requirements of subsections (3)(B) and (C) of this rule, and the system did not detect any contaminants listed in section (2), then the system shall sample annually beginning in the initial compliance period.]

*[(5)]***(4)** If contaminants are not detected during the first three (3)-year compliance period, systems may decrease their sampling frequency beginning in the next year.

(A) Groundwater systems must sample annually. After three (3) years of annual sampling and no previous detection, groundwater systems may reduce their sampling frequency to one (1) sample per compliance period.

(B) Surface water systems must sample annually after the initial sampling period if there are no contaminants detected in the initial sampling.

*[(6)]***(5)** If contaminants are detected in any sample, then systems must sample quarterly beginning in the next quarter at each sampling point which resulted in a detection.

(A) Groundwater systems must sample a minimum of two (2) quarters and surface water systems must sample a minimum of four (4) quarters to establish a baseline.

(B) If the MCL is exceeded, as described in subsection *[(6)]***(5)**(E) or (F) of this rule, then systems must sample quarterly beginning in the next quarter. Systems must sample a minimum of four (4) quarters to establish a baseline.

(C) If the baseline indicates a system's analytical results are reliably and consistently below the MCL, the department may reduce the system's sampling frequency to annually. (Annual sampling must be conducted during the quarter which previously yielded the highest analytical result.)

(D) Systems which have three (3) consecutive annual samples with no detection of a contaminant may apply to the department for a waiver.

(E) If a system conducts sampling more frequently than annually, the system will be in violation when the running annual average at any sampling point exceeds the MCL.

(F) If a system conducts sampling annually or on a less frequent basis, the system will be in violation when one (1) sample (or the average of the initial and confirmation samples) at any sampling point exceeds the MCL.

*[(7)]***(6)** A public water system may apply to the department for susceptibility waivers from required sampling. Systems are eligible for reduced monitoring in the initial three (3)-year compliance period. Waivers are effective for two (2) compliance periods. The waiver must be renewed in subsequent compliance periods, or the system must conduct sampling as required by section (3) of this rule. A public water system may apply to the department for susceptibility waivers for reduced monitoring contingent on the conduct of a thorough vulnerability assessment as required by 10 CSR 60-6.060(3).

(A) As a condition of the susceptibility waiver, a groundwater system must take one (1) sample at each sampling point during the time the waiver is effective (that is, one (1) sample during two (2) compliance periods or six (6) years) and update its vulnerability assessment by the end of the first compliance period. The department must confirm that the system is not vulnerable.

(B) Surface water systems must sample at a frequency determined by the department. A vulnerability assessment according to 10 CSR 60-6.060(3) must be required in subsequent compliance periods in order for the system to return to its nonvulnerable status.

(C) For the purposes of this section, detection is defined as greater than 0.0005 mg/*[l]***L**.

*[(8)]***(7)** As determined by the department, confirmation samples may be required for either positive or negative results. If a confirmation sample is used, the compliance determination is based on the average of the results of both the confirmation sample and the initial sample.

[(9) Any public water system violating MCLs or monitoring and reporting requirements for any of the contaminants listed in section (2) of this rule must notify the department within seven (7) days and give public notice as required by 10 CSR 60-8.010.]

*[(10)]***(8)** All new systems or systems that use a new source of water that begin operation after January 22, 2004 must demonstrate compliance with the MCL or treatment technique within a period of time specified by the department. The system must also comply with the initial sampling frequencies specified by the department to ensure a system can demonstrate compliance with the MCL or treatment technique. Routine and increased monitoring frequencies shall be conducted in accordance with the requirements in this rule.

*AUTHORITY: section 640.100, RSMo [Supp. 2002] **2016**. Original rule filed June 2, 1988, effective Aug. 31, 1988. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 6—Enforcement

PROPOSED AMENDMENT

10 CSR 60-6.060 Waivers From Baseline Monitoring Requirements. The department is adding language to section (1) and also removing language in (1); adding and removing language in (2); removing (2)(C); adding and removing language from (3); and adding and removing language from (3)(A)4.

PURPOSE: This amendment removes the requirement that public water systems must submit requests for waivers that meet department specifications. It also removes incorrect citations due to rule rescissions.

(1) Waivers may be granted by the department in accordance with the criteria in sections (2) and (3) of this rule. The department may initiate the evaluation and issue a waiver based on its evaluation of the criteria in sections (2) and (3) of this rule. A public water system may **submit a written** request **and supporting documentation for a**

waiver in accordance with sections (2) and (3) of this rule at any time if the department has not issued or denied a waiver. *[The request must be in writing, and the documentation submitted to support a request for a waiver from a public water system must be in a format specified by the department.]*

(2) Use waivers may be granted if it is determined that there has been no previous use of a contaminant within a given boundary**,** and that the public water supply system is in no danger of contamination from the specified contaminant. Use waivers are based on the use, or absence of use, of a potentially harmful contaminant within a given boundary. The boundary size will be determined by the department and can range from a single water system to statewide. Use waivers obtained for asbestos*[,]* **and** synthetic organic chemicals *[and unregulated chemicals]* (SOCs) may relieve the system of any sampling requirements. Use waivers will not be granted for volatile organic chemicals listed in 10 CSR 60-4.100(2) or for inorganic chemicals listed in 10 CSR 60-4.030(1) other than asbestos.

(A) Asbestos listed in 10 CSR 60-4.030(1)*[(B)]*—Waivers from analysis for asbestos in a water system will be based on the existence of asbestos-cement piping within the water system or asbestos contamination within the source water. If any asbestos-cement piping is present in any part of the treatment/distribution system, or if the source water is known to or suspected to contain asbestos, waivers will not be granted.

(B) SOCs listed in 10 CSR 60-4.040—Waivers from analysis for SOCs in a water system will be based on knowledge of previous use (including transportation, storage**,** or previous disposal) within a given boundary. If a given SOC has been detected within a water system, a waiver will not be granted to that system.

[(C) Unregulated organic chemicals listed in 10 CSR 60-4.110(2)(A)—Waivers from analysis for unregulated organic chemicals in a water system will be based on knowledge of previous use (including transportation, storage or previous disposal) within a given boundary. If a given unregulated organic chemical has been detected within a water system, a waiver will not be granted.]

(3) Susceptibility waivers may be granted in the form of reduced monitoring if all of the criteria in subsection (3)(A) are met. For assessing susceptibility **and examining criteria in paragraphs (3)(A)2. and 3.,** the minimum boundary area will be a radius of one-quarter (1/4) of a mile about groundwater well head(s) or the watershed area(s) of a surface water source *[and shall be used when examining criteria in paragraphs (3)(A)2. and 3]*. Susceptibility waivers may be granted for SOCs listed in 10 CSR 60-4.040(1) including polychlorinated biphenyls (PCBs), volatile organic chemicals (VOCs) listed in 10 CSR 60-4.100(2), *[unregulated chemicals listed in 10 CSR 60-4.110(2)(A) and (B),]* and inorganic chemicals (IOCs) listed in 10 CSR 60-4.030(1) except for nitrate and nitrite.

(A) Criteria for Susceptibility Waivers.

1. Previous analytical results show no detections.

2. The proximity of the system to a potential point or nonpoint source of contamination (that is, Superfund Amendments and Reauthorization Act (SARA) Title III hazardous waste site) is such that contamination is unlikely.

3. The environmental persistence of the contaminant is such that contamination is unlikely to occur due to the transport time, geographical**,** and geological characteristics.

4. The water source is protected from contamination by being constructed in a manner no less stringent than set forth for nonpublic wells in the Water Well Construction Code 10 CSR 23-3*[.010—10 CSR 23-3.100]* promulgated pursuant to the Missouri Water Well Drillers Act, section 256.600–**256.640**, RSMo.

5. The nitrate levels have been tested and it has been found that elevated nitrate levels indicating surface water intrusion do not exist.

6. The corrosive nature of the source water and the effectiveness of the systems corrosion control program.

*AUTHORITY: section 640.100, RSMo [Supp. 1992] **2016**. Original rule filed March 31, 1992, effective Dec. 3, 1992. Amended: Filed May 4, 1993, effective Jan. 13, 1994. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 6—Enforcement

PROPOSED AMENDMENT

10 CSR 60-6.070 Administrative Penalty Assessment. The department is removing (1)(H) and (I); adding and removing language in (2)(B)1; adding a correct citation in (4); removing section (5) and renumbering section (6).

PURPOSE: Proposed amendments to this rule will remove duplicative statutory language and correcting citations identified during the Red Tape Reduction Initiative.

(1) General Provisions.

[(H) Any final order imposing an administrative penalty is subject to judicial review upon the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the administrative penalty. No judicial review shall be available, however, until all administrative remedies are exhausted.

(I) The director may elect to assess an administrative penalty, or, in lieu thereof, to request that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in the appropriate circuit court.]

(2) Definitions.

(B) Additional definitions specific to this rule are as follows:

1. Conference, conciliation**,** and persuasion. A process of verbal or written communications consisting of meetings, reports, correspondence**,** or telephone conferences be-tween authorized representatives of the department and the alleged violator. The process *[shall]*, at a minimum, **will** consist of one (1) offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator *[shall]* **will** negotiate in good faith to eliminate the alleged violation and *[shall]* attempt to agree upon a plan to achieve compliance;

2. Gravity-based assessment. The degree of seriousness of a violation taking into consideration the risk to human health or the environment posed by violations of sections 640.100 to 640.140, RSMo, and associated rules and permits;

3. Major violation. A violation that poses or may pose a substantial risk to human health or to the environment, or has or may have a substantial adverse effect on the purposes of or procedures for implementing the law and associated rules or permits;

4. Minor violation. A violation that poses a small potential to harm the environment or human health or cause pollution, and was not knowingly committed;

5. Moderate violation. A violation that poses or may pose a significant risk to human health or to the environment, or has or may have a significant adverse effect on the purposes of or procedures for implementing the law and associated rules or permits;

6. Multiple violation penalty. The sum of individual administrative penalties assessed when two (2) or more violations are included in the same complaint or enforcement action;

7. Multi-day violation. A violation that has occurred on or continued for two (2) or more consecutive or nonconsecutive days; and

8. Potential for harm. The extent to which a violation poses a risk to human health or the environment or has a substantial adverse effect on the purposes of or procedures for implementing the law and associated rules or permits.

(4) Payment of Penalty. The proceeds from any administrative penalty assessed in accordance with this rule shall be paid to the county treasurer of the county in which the violation(s) occurred for the use and benefit of the county public schools, in accordance with section 7 of article IX of the Missouri Constitution. An administrative penalty shall be paid within sixty (60) days from the date of issuance of the order assessing the penalty, unless appealed per section *[(5) of this rule]* **621.250, RSMo**. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen percent (15%) of the penalty plus ten percent (10%) per annum on any amounts owed. An action may be brought in the appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection thereof.

[(5) Appeal Process. Any order assessing an administrative penalty shall state that an administrative penalty is being assessed under section 640.131, RSMo, and that the person subject to the penalty may appeal as provided by this section. Any such order which fails to state the law or regulation under which the penalty is being sought, the manner of collection or rights of appeal shall result in the state's waiving any right to collection of the penalty. Should any person subject to an administrative penalty want to appeal the penalty, that person shall appeal to the Safe Drinking Water Commission within thirty (30) days of the date of issuance of the order assessing the penalty. Any appeal shall stay the due date of such administrative penalty until the appeal is resolved.]

*[(6)]***(5)** Natural Resource Damages. Nothing in this rule shall be construed as satisfying any claims by the state or federal government for natural resource damages.

*AUTHORITY: sections 640.100 and 640.131, RSMo [Supp. 1998] **2016**. Original rule filed July 1, 1999, effective March 30, 2000. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 7—Reporting

PROPOSED AMENDMENT

10 CSR 60-7.010 Reporting Requirements. The department is amending section (1), removing section (4) and renumbering thereafter, correcting rule citations in (4)(B) and (C), adding language to (5), removing (5)(A) and renumbering thereafter, removing replacing incorrect language in the new (5)(A), (B) and (C), updating (6) with new rule citations, updating (6)(A) and (B) with new rule citations, updating (6)(C) and (7)(C) with new rule citations and renumbering thereafter.

PURPOSE: This amendment will correct rule citations due to amendments to 10 CSR 60-4.050 and 10 CSR 60-4.094 and the rescission of 10 CSR 60-4.090.

(1) General Information. Except where a shorter period is specified in this rule, the supplier of water shall report to the department the results of any test measurement or analysis, except operational analyses required by 10 CSR 60-4.080(3) other than those specified in sections (4) and *[(5)]* **(6)** of this rule, within the first ten (10) days following the month in which the result is received or the first ten (10) days following the end of the required monitoring period as stipulated by the department, whichever of these is shortest.

[(4) Turbidity measurements as required by 10 CSR 60-4.080(3) must be reported within ten (10) days after the end of each month the system serves water to the public. Information that must be reported includes:

(A) The total number of filtered water turbidity measurements taken during the month;

(B) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in 10 CSR 60-4.050; and

(C) The date and value of any turbidity measurements taken during the month which exceed five (5) nephelometric turbidity units (NTU).]

*[(5)]***(4)** Disinfection information must be reported within ten (10) days after the end of each month the system serves water to the public.

(A) Information that must be reported includes:

1. For each day, the lowest measurement of residual disinfectant concentration in milligrams per liter (mg/L) in water entering the distribution system;

2. The date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below **five tenths (**0.5**)** mg/L free chlorine or one (1) mg/L chloramines and when the department was notified of the occurrence; and

3. The following information on the samples taken in the distribution system:

A. Number of instances where the residual disinfectant concentration is measured;

B. Number of instances where the residual disinfectant concentration is not measured but the heterotrophic bacteria plate count

(HPC) is measured;

C. Number of instances where the residual disinfectant concentration is measured but is less than **two tenths (**0.2**)** mg/L and no HPC is measured;

D. Number of instances where residual disinfectant concentration is less than **two tenths (**0.2**)** mg/L and where the HPC is greater than five hundred per milliliter (HPC > 500/mL);

E. Number of instances where the residual disinfectant concentration is not measured and the HPC is greater than five hundred per milliliter (HPC > 500/mL); and

F. For the current and previous month the system serves water to the public, the value of V in the following formula:

$$V = \frac{(c + d + e) \times 100}{a + b}$$

where:

V = the percentage of time that the disinfectant residual is less than the required residual;

a = the value in subparagraph *[(5)]***(4)**(A)3.A. of this rule;

b = the value in subparagraph *[(5)]***(4)**(A)3.B. of this rule;

c = the value in subparagraph *[(5)]***(4)**(A)3.C. of this rule;

d = the value in subparagraph *[(5)]***(4)**(A)3.D. of this rule; and

e = the value in subparagraph *[(5)]***(4)**(A)3.E. of this rule.

(B) If the department determines, based upon site-specific considerations, that a system has no means for having a sample transported and analyzed for HPC by a certified laboratory within the requisite time and temperature conditions specified in 10 CSR 60-5 and that the system is providing adequate disinfection in the distribution system, the requirements of paragraph *[(5)]***(4)**(A)3. do not apply.

(C) A system need not report the data listed in subsection *[(5)]***(4)**(A) of this rule if all of that data remains on file at the system and the department determines that the system has submitted all the information required by subsection *[(5)]***(4)**(A) of this rule for at least twelve (12) months.

*[(6)]***(5)** Reporting and Record-Keeping Requirements for Disinfection By-Products and Enhanced Surface Water Treatment **for community and nontransient noncommunity water systems using chlorine, chloramines, or chlorine dioxide and for transient noncommunity water systems using chlorine dioxide as a disinfectant or oxidant**.

[(A) Compliance Dates.

1. CWS and NTNCWS serving ten thousand (10,000) or more persons and using surface water or ground water under the direct influence of surface water must comply with these requirements beginning December 16, 2001.

2. CWS and NTNCWS serving fewer than ten thousand (10,000) persons and using surface water or ground water under the direct influence of surface water, and systems using only ground water not under the direct influence of surface water, must comply with these requirements beginning December 16, 2003.

3. Transient NCWSs serving ten thousand (10,000) or more persons and using surface water or ground water under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide and chlorite in this rule beginning December 16, 2001.

4. Transient NCWSs serving fewer than ten thousand (10,000) persons, using surface water or ground water under the direct influence of surface water, and using chlorine dioxide as a disinfectant or oxidant, and systems using only ground water and using chlorine dioxide as a disinfectant or oxidant, must comply with any requirements in this rule for chlorine dioxide and chlorite in this rule beginning December 16, 2003.]

*[(B)]***(A)** Disinfection By-Products. Systems must report the information specified in the following table:

If you are...	You must report...[1]
[System monitoring for TTHM and HAA5 under the requirements of 10 CSR 60-4.090(3)(B) on a quarterly or more frequent basis.]	*[(1) The number of samples taken during the last quarter.* *(2) The location, date, and result of each sample taken during the last quarter.* *(3) The arithmetic average of samples taken in the last quarter.* *(4) The annual arithmetic average of the quarterly arithmetic averages of this section for the last four (4) quarters.* *(5) Whether the MCL was exceeded.]*
[System monitoring for TTHMs and HAA5 under the requirements of 10 CSR 60-4.090(3)(B) less frequently than quarterly (but at least annually).]	*[(1) The number of samples taken during the last quarter.* *(2) The location, date, and result of each sample taken during the last monitoring period.* *(3) The arithmetic average of all samples taken over the last year.* *(4) Whether the MCL was exceeded.]*
[System monitoring for TTHMs and HAA5 under the requirements of 10 CSR 60-4.090(3)(B) less frequently than annually.]	*[(1) The location, date, and result of the last sample taken.* *(2) Whether the MCL was exceeded.]*
System monitoring for chlorite under the requirements of 10 CSR 60-*[4.090(3)(B)]***4.094(2)(A)3**.	(1) The number of samples taken each month for the last three (3) months. (2) The location, date, and result of each sample taken during the last quarter. (3) For each month in the reporting period, the arithmetic average of all samples taken in the month. (4) Whether the MCL was exceeded, and in which month it was exceeded.
System monitoring for bromate under the requirements of 10 CSR 60-*[4.090(3)(B)]***4.094(2)(A)4**.	(1) The number of samples taken during the last quarter. (2) The location, date, and result of each sample taken during the last quarter. (3) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year. (4) Whether the MCL was exceeded.

[1]The department may choose to perform calculations and determine whether the MCL was exceeded, in lieu of having the system report that information.

*[(C)]***(B)** Disinfectant Residuals. Systems must report the information specified in the following table:

If you are...	You must report...[1]
System monitoring for chlorine or chloramines under the requirements of 10 CSR 60-*[4.090(3)(C)]***4.094(2)(A)1**.	(1) The number of samples taken during each month of the last quarter. (2) The monthly arithmetic average of all samples taken in each month for the last twelve (12) months. (3) The arithmetic average of all monthly averages for the last twelve (12) months. (4) Whether the MRDL was exceeded.
System monitoring for chlorine dioxide under the requirements of 10 CSR 60-*[4.090(3)(C)]***4.094(2)(A)2**.	(1) The dates, results, and locations of samples taken during the last quarter. (2) Whether the MRDL was exceeded. (3) Whether the MRDL was exceeded in any two consecutive daily samples and whether the resulting violation was acute or nonacute.

[1]The department may choose to perform calculations and determine whether the MRDL was exceeded, in lieu of having the system report that information.

*[(D)]***(C)** Disinfection By-Product Precursors and Enhanced Coagulation or Enhanced Softening. Systems must report the information specified in the following table:

If you are...	You must report...[1]
System monitoring monthly or quarterly for TOC under the requirements of 10 CSR 60-*[4.090(4)(D)]***4.094(2)(B)1.** and required to meet the enhanced coagulation or enhanced softening requirements in 10 CSR 60-*[4.090(4)(D)3]***4.094(3)(C)3**.	(1) The number of paired (source water and treated water, prior to continuous disinfection) samples taken during the last quarter. (2) The location, date, and result of each paired sample and associated alkalinity taken during the last quarter. (3) For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal. (4) Calculations for determining compliance with the TOC percent removal requirements. (5) Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements for the last four (4) quarters.
System monitoring monthly or quarterly for TOC under the requirements of 10 CSR 60-*[4.090(4)(D)]***4.094(3)(C)** and meeting one or more of the alternative compliance criteria in 10 CSR 60-[4.090*(4)(D)1. or 2]***4.094(3)(C)1. or (3)(C)2.**	(1) The alternative compliance criterion that the system is using. (2) The number of paired samples taken during the last quarter. (3) The location, date, and result of each paired sample and associated alkalinity taken during the last quarter. (4) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems meeting a criterion in 10 CSR 60-*[4.090(4)(D)1.A. or C.]* **4.094(3)(C)1.A or (3)(C)1.C.** or of treated water TOC for systems meeting the criterion in 10 CSR 60-*[4.090 (4)(D)1.B]* **4.094(3)(C)1.B**. (5) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in 10 CSR 60-*[4.090(4)(D)1.E.]***4.094(3)(C)1.E.** or of treated water Specific Ultraviolet Absorbance (SUVA) for systems meeting the criterion in 10 CSR 60-*[4.090(4)(D)1.F.***4.094(3)(C)1.F**. (6) The running annual average of source water alkalinity for systems meeting the criterion in 10 CSR 60-*[4.090(4)(D)1.C.]* **4.094(3)(C)1.C.** and of treated water alkalinity for systems meeting the criterion in 10 CSR 60-*[4.090 (4)(D)2.]* **4.094(3)(C)2.** (7) The running annual average for both TTHM and HAA5 for systems meeting the criterion in 10 CSR 60-*[4.090 (4)(D)1.C. or D.]***4.094(3)(C)1.C or (3)(C)1.D.** (8) The running annual average of the amount of magnesium hardness removal (as $CaCO_3$, in mg/L) for systems meeting the criterion in 10 CSR 60-*[4.090 (4)(D)2.B.]***4.094(3)(C)2.B.** (9) Whether the system is in compliance with the particular alternative compliance criterion in 10 CSR 60-*[4.090 (4)(D)1. or 2.]***4.094(3)(C)1. or (3)(C)2.**

[1]The department may choose to perform calculations and determine whether the treatment technique was met, in lieu of having the system report that information.

*[(7)]***(6)** Enhanced Filtration and Disinfection Reporting and Record-Keeping Requirements. In addition to the reporting and record-keeping requirements in sections *[(5) and (8)]* **(4) and (7)** of this rule, a public water system subject to the requirements of *[10 CSR 60-4.055(6)]* **10 CSR 60-4.050** that provides conventional filtration treatment must report monthly to the department the information specified in subsections *[(7)]***(6)**(A) and *[(7)]***(6)**(B) of this rule *[beginning January 1, 2002]*. In addition to the reporting and record-keeping requirements in sections *[(5) and (8)]* **(4) and (7)** of this rule, a public water system subject to the requirements of *[10 CSR 60-4.055(6)]* **10 CSR 60-4.050** that provides filtration approved under 10 CSR 60-4.050*[(3)(G)]***(2)(F)** must report monthly to the department the information specified in subsection *[(7)]***(6)**(A) of this rule *[beginning January 1, 2002]*. *[The reporting in subsection (7)(A) of this rule takes the place of the reporting specified in section (4) of this rule.]*

(A) Turbidity measurements as required by 10 CSR 60-4.050*[(3)(B)]***(2)(A)** must be reported within ten (10) days after the end of each month the system serves water to the public. Information that must be reported includes:

1. The total number of filtered water turbidity measurements taken during the month;

2. The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in 10 CSR 60-4.050*[(3)(B)]***(2)(A)**1. or *[2.]* **10 CSR 60-4.050(2)(F)**; and

3. The date and value of any turbidity measurements taken during the month which exceed 1 Nephelometric Turbidity Unit (NTU) for systems using conventional filtration treatment, or which exceed the applicable maximum level **set by the department under 10 CSR 60-4.050(2)(F)**.

(B) Systems must maintain the results of individual filter monitoring taken under 10 CSR 60-4.050*[(3)(E)]***(2)(D)** for at least three (3) years. Systems must report that they have conducted individual filter turbidity monitoring under 10 CSR 60-4.050*[(3)(E)]***(2)(D)** within ten (10) days after the end of each month the system serves water to the public. Systems must report the individual filter turbidity measurement results within ten (10) days after the end of each month the system serves water to the public only if measurements demonstrate one (1) or more of the conditions in paragraphs *[(7)]***(6)**(B)1.–2. of this rule. Systems that use lime softening may apply to the department for alternative exceedance levels for the levels specified in this subsection *[(7)]***(6)**(B) if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

1. Surface water systems that serve more than ten thousand (10,000) people must report the individual filter turbidity measurement results within ten (10) days after the end of each month only if measurements demonstrate one (1) or more of the following conditions*[.]***:**

A. For any individual filter that has a measured turbidity level of greater than **one and zero tenths (**1.0**)** NTU in two (2) consecutive measurements taken fifteen (15) minutes apart, the system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter profile for the filter within seven (7) days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance*[.]***;**

B. For any individual filter that has a measured turbidity level of greater than **five tenths (**0.5**)** NTU in two (2) consecutive measurements taken fifteen (15) minutes apart at the end of the first four (4) hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter profile for the filter within seven (7) days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance*[.]***;**

C. For any individual filter that has a measured turbidity level of greater than **one and zero tenths (**1.0**)** NTU in two (2) consecutive measurements taken fifteen (15) minutes apart at any time in each of three (3) consecutive months, the system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system must conduct a self-assessment of the filter within fourteen (14) days of the exceedance and report that the self-assessment was conducted. The self-assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report*[.]***; and**

D. For any individual filter that has a measured turbidity level of greater than **two and zero tenths (**2.0**)** NTU in two (2) consecutive measurements taken fifteen (15) minutes apart at any time in each of two (2) consecutive months, the system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system must arrange for the conduct of a Comprehensive Performance Evaluation by the department or a third party approved by the department no later than thirty (30) days following the exceedance and have the evaluation completed and submitted to the department no later than ninety (90) days following the exceedance.

(I) The Comprehensive Performance Evaluation is a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The comprehensive performance evaluation must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a Comprehensive Performance Evaluation report.

(II) If the Comprehensive Performance Evaluation results indicate improved performance potential, the system shall implement Comprehensive Technical Assistance. The system must identify and systematically address plant-specific factors. The Comprehensive Technical Assistance is a combination of utilizing Comprehensive Performance Evaluation results as a basis for followup, implementing process control priority-setting techniques, and maintaining long-term involvement to systematically train staff and administrators.

2. Surface water systems that serve less than ten thousand (10,000) people must report the individual filter turbidity measurements within ten (10) days after the end of each month only if measurements demonstrate one (1) or more of the following conditions.

A. For any individual filter that exceeds **one and zero tenths (**1.0**)** NTU in two (2) consecutive recordings fifteen (15) minutes apart, the system must report the filter number(s), corresponding date(s), turbidity value(s) which exceeded **one and zero tenths (**1.0**)** NTU, and the cause (if known) for the exceedance(s).

B. For any individual filter that for three (3) months in a row the turbidity exceeded **one and zero tenths (**1.0**)** NTU in two (2) consecutive recordings fifteen (15) minutes apart, the system must conduct a self-assessment of the filter(s) within fourteen (14) days of the triggering event. The system must report the date self-assessment was triggered and the date it was completed. The self-assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. The filter self-assessment is not required if a comprehensive performance evaluation (CPE) was required.

C. For any individual filter that for two (2) months in a row the turbidity exceeded **two and zero tenths (**2.0**)** NTU in two (2) consecutive recordings, fifteen (15) minutes apart, the system must arrange to have a CPE conducted not later than sixty (60) days following the triggering event. The CPE must be conducted by the department or a third party approved by the department. If a CPE has been completed by the department or a third party approved by the department within the twelve (12) prior months or the system and department are jointly participating in an ongoing Comprehensive Technical Assistance (CTA) project at the system, a new CPE is not required. If conducted, a CPE must be completed and submitted to the department no later than one hundred twenty (120) days following the triggering event.

(C) Additional turbidity reporting requirements. Reporting requirements for turbidity exceedences are in 10 CSR 60-4.050*[(3)]***(2)(C)**.

*[(8)]***(7)** Stage 2 Disinfectants/Disinfection By-Products (D/DBP) Rule Reporting and Record-Keeping Requirements.

(A) Reporting.

1. You must report the following information for each monitoring location to the department within ten (10) days of the end of any quarter in which monitoring is required:

A. Number of samples taken during the last quarter;

B. Date and results of each sample taken during the last quarter;

C. Arithmetic average of quarterly results for the last four (4) quarters for each monitoring location (LRAA), beginning at the end of the fourth calendar quarter that follows the compliance date and at the end of each subsequent quarter. If the LRAA calculated based on fewer than four (4) quarters of data would cause the maximum contaminant level (MCL) to be exceeded regardless of the monitoring results of subsequent quarters, you must report this information to the department as part of the first report due following the compliance date or anytime thereafter that this determination is made. If you are required to conduct monitoring at a frequency that is less than quarterly, you must make compliance calculations beginning with the first compliance sample taken after the compliance date, unless you are required to conduct increased monitoring under section 10 CSR 60-4.094*[(6)]***(2)(C)4.**;

D. Whether based on 10 CSR 60-*[4.090(1)(D)]* **4.094(3)(D)3.A.** and this rule, the MCL was violated at any monitoring location; and

E. Any operational evaluation levels that were exceeded during the quarter and, if so, the location and date, and the calculated total trihalomethanes (TTHM) and haloacetic acids 5 (HAA5) levels.

2. If you are a surface water system or ground water under the direct influence of surface water system seeking to qualify for or remain on reduced TTHM/HAA5 monitoring, you must report the following source water total organic carbon (TOC) information for each treatment plant that treats surface water or ground water under the direct influence of surface water to the department within ten (10) days of the end of any quarter in which monitoring is required:

A. The number of source water TOC samples taken each month during last quarter;

B. The date and result of each sample taken during last quarter;

C. The quarterly average of monthly samples taken during last quarter or the result of the quarterly sample;

D. The running annual average (RAA) of quarterly averages from the past four (4) quarters; and

E. Whether the RAA exceeded **four and zero tenths (**4.0**)** mg/L.

3. The department may choose to perform calculations and determine whether the MCL was exceeded or the system is eligible for reduced monitoring in lieu of having the system report that information.

*[(9)]***(8)** Each system, upon discovering that a waterborne disease outbreak potentially attributable to that water system has occurred, must report that occurrence to the department as soon as possible but no later than by the end of the next business day. If the system is notified by the department or the Department of Health and Senior Services**,** of an outbreak, the reporting requirement of this section is waived.

*[(10)]***(9)** A supplier of water shall submit proof to the department that public notification has been made within ten (10) days of the date that the notice was to have been made for initial public notice and any repeat notices. The supplier of water shall provide a certification he/she has fully complied with the public notification regulations, and shall provide a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.

*[(11)]***(10)** Reporting Requirements for the Ground Water Rule.

(A) In addition to any other applicable reporting requirements of this rule, a ground water system regulated under 10 CSR 60-4.025 must provide the following information to the department:

1. A ground water system conducting compliance monitoring under 10 CSR 60-4.025(4)(B) must notify the department any time the system fails to meet any department-specified requirements including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within four (4) hours. The ground water system must notify the department as soon as possible, but in no case later than the end of the next business day;

2. After completing any corrective action under 10 CSR 60-4.025(4)(A), a ground water system must notify the department within thirty (30) days of completion of the corrective action; and

3. If a ground water system subject to the requirements of 10 CSR 60-4.025(3)(A) does not conduct source water monitoring under subparagraph (3)(A)5.B. of that rule, the system must provide documentation to the department within thirty (30) days of the total coliform-positive sample that the system met the department criteria.

*[(12)]***(11)** Reporting Requirements for the Revised Total Coliform Rule.

(A) *E. coli*.

1. A system must notify the department by the end of the day when the system learns of an *E. coli* MCL violation, unless the system learns of the violation after the department office is closed and the department does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the department before the end of the next business day, and notify the public in accordance with 10 CSR 60-8.010.

2. A system must notify the department by the end of the day when the system is notified of an *E. coli*-positive routine sample, unless the system is notified of the result after the department office is closed and the department does not have either an after-hours phone line or an alternative notification procedure, in which case the system must notify the department before the end of the next business day.

(B) A system that has violated the treatment technique for coliforms in 10 CSR 60-4.022(9) must report the violation to the department no later than the end of the next business day after it learns of the violation, and notify the public in accordance with 10 CSR 60-8.010.

(C) A system required to conduct an assessment under the provisions of 10 CSR 60-4.022(9) must submit the assessment report to the department within thirty (30) days. The system must notify the department in accordance with 10 CSR 60-4.022(9) when each scheduled corrective action is completed for corrections not completed by the time of submission of the assessment form.

(D) A system that has failed to comply with a coliform monitoring

requirement must report the monitoring violation to the department within ten (10) days after the system discovers the violation and notify the public in accordance with 10 CSR 60-8.010.

(E) A seasonal system must certify to the department, prior to serving water to the public, that it has complied with the department-approved start-up procedure.

*AUTHORITY: section 640.100, RSMo [Supp. 2014] **2016**. Original rule filed May 4, 1979, effective Sept. 14, 1979. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 8—Public Notification

PROPOSED AMENDMENT

10 CSR 60-8.010 Public Notification of Conditions Affecting a Public Water Supply. The department is amending (1)(A)9. and (2)(A)2.A., removing (2)(A)2.E., and renumbering thereafter, adding the term "turbidity" to (3)(A)2.A., removing a rule citation to (3)(B)2., changing a rule citation in (4)(A)2.D., adding clarifying language to (4)(C)2.D. and (5)(C)2., removing language in (11)(A)1. and 2., and correcting an error in (11)(A)3., and adding language to (11)(E)9.

PURPOSE: The amendment corrects rule citations due to amendments to other regulations in 10 CSR 60, removes outdated rule language and provides clarification on existing regulations.

(1) General Information and Requirements.

(A) Types of Violations and Other Situations Requiring Public Notice.

1. Failure to comply with an applicable maximum contaminant level (MCL) or maximum residual disinfectant levels (MRDL).

2. Failure to comply with a prescribed treatment technique.

3. Failure to perform required water quality monitoring as required by drinking water regulations.

4. Failure to comply with testing procedures as prescribed by a drinking water regulation.

5. Operation under a variance or an exemption.

6. Failure to comply with the requirements of any schedule that has been set under a variance or exemption.

7. Special public notice.

8. Occurrence of a waterborne disease outbreak or other waterborne emergency.

9. Exceedance of the nitrate MCL by non*[-]*community water systems where granted permission by the department;

10. Exceedance of the secondary maximum contaminant level (SMCL) for fluoride.

11. Availability of unregulated contaminant monitoring data.

12. Other violations and situations determined by the department to require a public notice.

(2) Tier 1 Public Notice.

(A) Violation Categories and Other Situations Requiring a Tier 1 Public Notice.

1. Tier 1 public notice is required for violations or other situations with significant potential to have serious adverse effects on human health as a result of short-term exposure.

2. Specific violations and other situations requiring Tier 1 notice include:

A. *[Violation of the MCL for total coliforms when fecal coliform or E. coli are present in the water distribution system as specified in 10 CSR 60-4.020(7)(B) until March 31, 2016, when the water system fails to test for fecal coliforms or E. coli when any repeat sample tests positive for coliform as specified in 10 CSR 60-4.020(5)(A) until March 31, 2016; or v]***V**iolation of the MCL for *E. coli* as specified in *[10 CSR 60-4.020(7)(C) beginning April 1, 2016]* **10 CSR 60-4.022(10)(A)**;

B. Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, or when the water system fails to take a confirmation sample within twenty-four (24) hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL;

C. Exceedance of the nitrate MCL by non*[-]*community water systems where permitted by the department to exceed the MCL;

D. Violation of the MRDL for chlorine dioxide, when one (1) or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system, exceed the MRDL, or when the water system does not take the required samples in the distribution system;

[E. Violation of the maximum turbidity level where the sample results exceed five (5) nephelometric turbidity units (NTU);]

*[F.]***E.** Violation of a treatment technique requirement pursuant to 10 CSR 60-4.050 resulting from a single exceedance of the maximum allowable turbidity limit, where the department determines after consultation that the violation has significant potential to have serious adverse effects on human health or where the system fails to consult with the department within twenty-four (24) hours after the system learns of the violation;

*[G.]***F.** Occurrence of a waterborne disease outbreak or other waterborne emergency (such as failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination);

*[H.]***G.** Detection of *E. coli*, enterococci, or coliphage in source water samples as specified in 10 CSR 60-4.025(3)(A) and 10 CSR 60-4.025(3)(B); and

*[I.]***H.** Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the department either in regulation or on a case-by-case basis.

(C) Form and Manner of Tier 1 Public Notice.

1. The owner or operator of the public water system shall use the health effects language in section (11) of this rule for MCL violations requiring Tier 1 public notice.

2. Tier 1 public notice shall be provided within twenty-four (24) hours in a form and manner reasonably calculated to reach all persons served. The form and manner used by the public water system *[are to]* **shall** fit the specific situation *[but shall]* **and** be designed to reach residential, transient, and non*[-]*transient users of the water system*[. In order to reach all persons served, water system shall use, at a minimum,]* **using** one (1) or more of the following forms of delivery:

A. Appropriate broadcast media, such as radio and television;

B. Posting the notice in conspicuous locations throughout the area served by the water system;

C. Hand delivery of the notice to persons served by the water system; or

D. Another delivery method approved in writing by the department.

(3) Tier 2 Public Notice.

(A) Violation Categories and Other Situations Requiring a Tier 2 Public Notice.

1. Tier 2 public notice is required for violations and other situations with potential to have serious adverse effects on human health.

2. Specific violations and other situations requiring Tier 2 notice.

A. Tier 2 notice is required for violations of MCL, MRDL, or treatment technique requirements, except where a Tier 1 notice is required or where *[the]* **a Tier 1 notice is determined by the** department *[determines that a Tier 1 notice is required]*, for the following: microbiological contaminants; inorganic contaminants (IOCs); synthetic organic contaminants (SOCs); volatile organic contaminants (VOCs); radiological contaminants; disinfection byproducts, byproduct precursors, and disinfectant residuals; treatment techniques for acrylamide, epichlorohydrin, **turbidity,** lead, and copper; and other situations determined by the department to require Tier 2 notice. Systems with treatment technique violations involving a single exceedance of a maximum turbidity limit under 10 CSR 60-4.050 must initiate consultation with the department within twenty-four (24) hours of learning of the violation. Based on this consultation the department may subsequently decide to elevate the violation to Tier 1. If a system is unable to make contact with the department in the twenty-four- (24-) hour period, the violation is automatically elevated to Tier 1.

B. Failure to comply with the terms and conditions of a variance or exemption.

C. Violations of the monitoring and testing procedure requirements where the department determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation. This includes but is not limited to collecting no total coliform samples during the applicable monitoring period at the discretion of the department.

D. Failure to take corrective action or failure to maintain at least 4-log treatment of viruses (using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal) before or at the first customer under 10 CSR 60-4.025(4)(A).

(B) Timing of Tier 2 Public Notice.

1. Public water systems must provide the public notice as soon as possible, but not later than thirty (30) days after the system learns of the violation. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but in no case for less than seven (7) days, even if the violation or situation is resolved. The department may, in appropriate circumstances, allow additional time for the initial notice of up to three (3) months from the date the system learns of the violation. The department will not grant an extension to the thirty- (30-) day deadline for any unresolved violation or provide across-the-board extensions for other violations or situations requiring a Tier 2 public notice. Extensions granted by the department will be in writing.

2. The public water system must repeat the notice every three (3) months as long as the violation or situation persists, unless the department determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year. The department will not allow less frequent repeat notice for an MCL violation pursuant to *[10 CSR 60-4.020 or]* 10 CSR 60-4.022 or a treatment technique violation pursuant to 10 CSR 60-4.050 or 10 CSR 60-4.052. The department will not allow across-the-board reductions in the repeat notice frequency for other ongoing violations requiring a Tier 2 repeat notice. The department's determinations allowing repeat notices to be given less frequently than once every three (3) months will be in writing.

3. For violations of the maximum turbidity level and for violations of the treatment technique requirements pursuant to 10 CSR 60-4.050 resulting from a single exceedance of the maximum allowable turbidity limit, public water systems must consult with the department as soon as practical but no later than twenty-four (24) hours after the public water system learns of the violation to determine whether a Tier 1 public notice is required to protect public health. When consultation does not take place within the twenty-four- (24-) hour period, the water system must distribute a Tier 1 notice of the violation within the next twenty-four (24) hours (that is, no later than forty-eight (48) hours after the system learns of the violation).

(C) Form and Manner of Tier 2 Public Notice. Public water systems must provide the initial public notice and any repeat notices in a form and manner reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system but must, at a minimum, meet the following requirements:

1. Unless directed otherwise by the department in writing, community water systems must provide notice by:

A. Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

B. Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by mail or direct delivery. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). These other methods may include: publication in a local newspaper or newsletter; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places served by the system or on the Internet; or delivery to community organizations.

2. Unless directed otherwise by the department in writing, non*[-]*community water systems must provide notice by:

A. Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

B. Any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by posting in a conspicuous location, mail, or direct delivery. Such persons include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. These other methods may include: publication in a local newspaper or newsletter distributed to customers; use of e-mail to notify employees or students; or delivery of multiple copies in central locations (e.g., community centers).

(4) Tier 3 Public Notice.

(A) Violation Categories and Other Situations Requiring a Tier 3 Public Notice.

1. Tier 3 public notice is required for all other violations and situations not included in Tier 1 and Tier 2.

2. Specific violations and other situations requiring Tier 3 public notice include:

A. Monitoring violations or failure to comply with a testing procedure, except where a Tier 1 notice is specifically required or where the department determines that a Tier 2 notice is required, for the following: microbiological contaminants; inorganic contaminants (IOCs); synthetic organic contaminants (SOCs); volatile organic contaminants (VOCs); radiological contaminants; disinfection byproducts, byproduct precursors, and disinfectant residuals; treatment techniques for lead and copper. Specific exceptions are listed under

sections (2) and (3) of this rule;

B. Operation under a variance or exemption;

C. Exceedance of the fluoride SMCL;

D. Reporting and recordkeeping violations under 10 CSR 60-4.022, 10 CSR 60-7.010*[(12)]***(11)**, and 10 CSR 60-9.010(4)-(5); and

E. Other violations or situations determined by the department either in regulation or on a case-by-case basis.

(C) Form and Manner of Tier 3 Public Notice. Public water systems must provide the initial notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

1. Unless directed otherwise by the department in writing, community water systems must provide notice by:

A. Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

B. Any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by mail or other direct delivery. Such persons may include those who do not pay water bills or do not have service connection addresses (for example, house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: */P/***p**ublication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (for example, apartment building owners or large private employers); posting in public places or on the Internet; or delivery to community organizations.

2. Unless directed otherwise by the department in writing, non*/-/*community water systems must provide notice by:

A. Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known); and

B. Any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by posting, mail, or direct delivery. Such persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include: */P/***p**ublication in a local newspaper or newsletter distributed to customer; use of e-mail to notify employees or students; or, delivery of multiple copies in central location**s** (for example, community center**s**).

(D) Use of Consumer Confidence Report to Meet Tier 3 Requirement. **For community water systems,** */T/***t**he Consumer Confidence Report (CCR) may be used for the Tier 3 public notice as long as:

1. The CCR is provided to persons served no later than twelve (12) months after the system learns of the violation or situation.

2. The Tier 3 notice contained in the CCR follows the content requirements under section (5) of this rule; and

3. The CCR is distributed following the delivery requirements under subsection (4)(C) of this rule.

(5) Content of the Public Notice.

(C) Presentation of the Public Notice.

1. Each public notice:

A. Must be displayed in a conspicuous way when printed or posted;

B. Must not contain overly technical language or very small print;

C. Must not be formatted in a way that defeats the purpose of the notice;

D. Must not contain language which nullifies the purpose of the notice.

2. Each public notice must comply with multilingual requirements*/./* **as follows:**

A. Where the department has determined the public water system serves a large proportion of non-English speaking consumers, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language*/./***;**

B. Where the department has not made a determination regarding the proportion of non-English speaking consumers, the public notice must contain the same information as in subparagraph (5)(C)2.A. of this rule*/./***; and**

C. Where the department has determined there is not a large proportion of non-English speaking customers, no multilingual requirement applies.

(6) Notice to New Billing Units or Customers.

(B) Non*/-C/***c**ommunity Water Systems. Non*/-/***c**ommunity water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance, or exemption, or other situation requiring a public notice for as long as the violation, variance, exemption, or other situation persists.

(9) Special Public Notices.

(A) Special Notice for the Availability of Unregulated Contaminant Monitoring Results.

1. Timing of the special notice. The owner or operator of a community water system or nontransient non*/-/*community water system required to monitor for unregulated contaminants under Environmental Protection Agency's (EPA's) Unregulated Contaminant Monitoring Rule must notify persons served by the system of the availability of the results of such sampling no later than twelve (12) months after the monitoring results are known.

2. Form and manner of special notice. The form and manner of the public notice shall follow the requirements for a Tier 3 public notice. The notice shall also identify a person and provide the telephone number to contact for information on the monitoring results.

(C) Special Notice for Nitrate Exceedances Above the MCL by Non*/-/*community Water Systems.

1. The owner or operator of a non*/-/*community water system granted permission by the department to exceed the nitrate MCL shall provide notice to persons served according to the requirements for a Tier 1 notice.

2. The owner or operator shall provide continuous posting of the fact that nitrate levels exceed ten (10) mg/L and the potential health effects of exposure, according to the requirements for Tier 1 notice delivery under section (2) and the content requirements under section (5) of this rule.

(D) Special notice for repeated failure to conduct monitoring of the source water for *Cryptosporidium* and for failure to determine bin classification or mean *Cryptosporidium* level.

1. The owner or operator of a community or non*/-/*community water system that is required to monitor source water under 10 CSR 60-4.052(2) must notify persons served by the water system that monitoring has not been completed as specified no later than thirty (30) days after the system has failed to collect any three (3) months of monitoring as specified in 10 CSR 60-4.052(2)(C). The notice must be repeated as specified in 10 CSR 60-8.010(3).

2. Special notice for failure to determine bin classification or mean *Cryptosporidium* level. The owner or operator of a community or non*/-/*community water system that is required to determine a bin classification under 10 CSR 60-4.052(10) must notify persons served by the water system that the determination has not been made as required no later than thirty (30) days after the system has failed to report the determination as specified in 10 CSR 60-4.052(10)(E). The notice must be repeated as specified in 10 CSR 60-8.010(3). The notice is not required if the system is complying with a department-approved schedule to address the violation.

3. Form and manner of the special notice. The form and manner of the public notice must follow the requirements for a Tier 2 public notice prescribed in subsection (3)(C) of this rule. The public notice must be presented as required in section (3) of this rule.

4. Mandatory language that must be contained in the special notice. The notice must contain the following language, including the language necessary to fill in the blanks.

A. The special notice for repeated failure to conduct monitoring must contain the following language:

"We are required to monitor the source of your drinking water for *Cryptosporidium*. Results of the monitoring are to be used to determine whether water treatment at the {treatment plant name} is sufficient to adequately remove *Cryptosporidium* from your drinking water. We are required to complete this monitoring and make this determination by {required bin determination date}. We did not monitor or test or did not complete all monitoring or testing on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate *Cryptosporidium* removal. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, {date}. For more information, please call {name of water system contact} of {name of water system} at {phone number}."

B. The special notice for failure to determine bin classification or mean *Cryptosporidium* level must contain the following language:

"We are required to monitor the source of your drinking water for *Cryptosporidium* in order to determine by {date} whether water treatment at the {treatment plant name} is sufficient to adequately remove *Cryptosporidium* from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of {date}. For more information, please call {name of water system contact} of {name of water system} at {phone number}."

C. Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.

(11) Standard Health Effects Language for Public Notification.

(A) Microbiological Contaminants.

1. Total Coliform. *[Until March 31, 2016, "Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems." Beginning April 1, 2016,]* "Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in the water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments."

2. *E. coli*. *[Until March 31, 2016, "Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these waters can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems." Beginning April 1, 2016,]* "*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems."

3. Fecal indicators under the Ground Water Rule (*E. coli*, enterococci, coliphage). "Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these *[waters]* **wastes** can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems."

4. Treatment technique violations under the Ground Water Rule. "Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms can cause symptoms such as diarrhea, nausea, cramps, and associated headaches."

5. Revised Total Coliform Rule Treatment Technique violations for Coliform Assessment and/or Corrective Action. "Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessments to identify problems and to correct any problems that are found.

{THE SYSTEM MUST USE THE FOLLOWING APPLICABLE SENTENCES.}

We failed to conduct the required assessment.

We failed to correct all identified sanitary defects that were found during the assessment(s)."

6. Revised Total Coliform Rule Treatment Technique violations for *E. coli* Assessment and/or Corrective Action. "*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We violated the standard for *E. coli*, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct a detailed assessment to identify problems and to correct any problems that are found.

{THE SYSTEM MUST USE THE FOLLOWING APPLICABLE SENTENCES.}

We failed to conduct the required assessment.

We failed to correct all identified sanitary defects that were found during the assessment that we conducted."

7. Revised Total Coliform Rule Seasonal System Treatment Technique violations. When this violation includes the failure to monitor for total coliforms or *E. coli* prior to serving water to the public, the mandatory language found at 10 CSR 60-8.010(5)(D)2. must be used. When this violation includes failure to complete other actions, the appropriate elements found in 10 CSR 60-8.010(5)(A) to describe the violation must be used.

8. Turbidity. "Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."

(B) Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long-Term 1 Enhanced Surface Water Treatment Rule, and Filter Backwash Recycling Rule (FBRR) Violations.

1. *Giardia lamblia*. "Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."

2. Viruses. "Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and

parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."

3. Heterotrophic plate count (HPC) bacteria. "Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."

4. *[Legionella]* ***Legionella***. "Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."

5. *[Cryptosporidium]* ***Cryptosporidium***. "Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."

(E) Synthetic Organic Chemicals (SOCs).

1. 25. 2,4-D. "Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands."

2. 26. 2,4,5-TP (Silvex). "Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems."

3. Alachlor. "Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer."

4. Atrazine. "Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties."

5. Benzo(a)pyrene (PAHs). "Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer."

6. Carbofuran. "Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems."

7. Chlordane. "Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver, or nervous system, and may have an increased risk of getting cancer."

8. Dalapon. "Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes."

9. Di(2-ethylhexyl)adipate. "Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience *[general]* toxic effects *[or]* **such as, weight loss, liver enlargement, or possible** reproductive difficulties."

10. Di(2-ethylhexyl)phthalate. "Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer."

11. Dibromochloropropane (DBCP). "Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer."

12. Dinoseb. "Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties."

13. Dioxin (2,3,7,8-TCDD). "Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer."

14. Diquat. "Some people who drink water containing diquat in excess of the MCL over many years could get cataracts."

15. Endothall. "Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines."

16. Endrin. "Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems."

17. Ethylene dibromide. "Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer."

18. Glyphosate. "Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties."

19. Heptachlor. "Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer."

20. Heptachlor epoxide. "Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer."

21. Hexachlorobenzene. "Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer."

22. Hexachlorocyclopentadiene. "Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach."

23. Lindane. "Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver."

24. Methoxychlor. "Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties."

25. Oxamyl (Vydate). "Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects."

26. Pentachlorophenol. "Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer."

27. Picloram. "Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver."

28. Polychlorinated biphenyls (PCBs). "Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer."

29. Simazine. "Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood."

30. Toxaphene. "Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer."

AUTHORITY: section 640.100, RSMo [Supp. 2014] ***2016****. Original rule filed May 4, 1979, effective Sept. 14, 1979. 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, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to sheri.fry@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 10:00 a.m. on August 16, 2018, at the Department of Natural Resources, Bennett Springs Conference Room, 1730 East Elm Street, Jefferson City, MO 65101.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 8—Public Notification

PROPOSED AMENDMENT

10 CSR 60-8.030 Consumer Confidence Reports. The department is amending (2)(D)1.B. and C. and renumbering, removing (2)(D)3.B. and moving A. directly under 3., removing and replacing language from (2)(D)4.D. and (2)(D)4.D.(II), removing language from (2)(D)4.D.(III), removing language in (2)(G) and (H) and renumbering thereafter, removing a reference to the Code of Federal Regulations in (2)(E)1., removing a reference in (2)(F)6., removing language in (3)(B)(2) and moving 1., directly under (B), and removing language from Appendix A, B, and C.

PURPOSE: The amendment corrects rule citations due to amendments and rescissions of other regulations in 10 CSR 60 and removes outdated rule language and provides clarification on existing regulations.

(2) Content of the Reports.

(D) Information on Detected Contaminants.

1. Subsection (2)(D) specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except *Cryptosporidium*). It applies to—

A. Contaminants subject to an MCL, action level, maximum residual disinfectant level, or treatment technique (regulated contaminants); **and**

[B. Contaminants for which monitoring is required by 10 CSR 60-4.110 (unregulated contaminants); and]

*[C.]***B.** Disinfection by-products or microbial contaminants for which monitoring is required *[by 40 CFR 141.142 and 141.143,]* except as provided under paragraph (2)(E)1. of this rule, and which are detected in the finished water.

2. The data relating to these contaminants must be displayed in one (1) table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

3. The data must be derived from data collected to comply with the Environmental Protection Agency and department monitoring and analytical requirements during the previous calendar year except tha*t[—]*

*[A. W]***w**here a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. The system may use the following language or similar language for their statement: "The state has reduced monitoring requirements for certain contaminants to less often than once per year because the concentrations of these contaminants are not expected to vary significantly from year-to-year. Some of our data (e.g., for organic contaminants), though representative, is more than one (1) year old." No data older than five (5) years need be included.

[B. Results of monitoring in compliance with 40 CFR 141.142 and 141.143 need only be included for five (5) years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.]

4. For detected regulated contaminants (listed in Appendix A, included herein), the table(s) must contain—

A. The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Appendix A, included herein);

B. The MCLG for that contaminant expressed in the same units as the MCL;

C. If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph (2)(C)3. of this rule;

D. For contaminants subject to an MCL, except turbidity, total coliform, fecal coliform and *E. coli*, the highest contaminant level used to determine compliance with 10 CSR 60-4.030; 10 CSR 60-4.040; 10 CSR 60-4.060; *[10 CSR 60-4.090;]* **10 CSR 60-4.094;** 10 CSR 60-4.100 and the range of detected levels, as follows (when rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Appendix A, included herein):

(I) When compliance with the MCL is determined annually or less frequently—the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL;

(II) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a monitoring location—the highest average of any of the monitoring locations and the range of all monitoring locations expressed in the same units as the MCL. For the MCLs for total trihalomethanes (TTHM) and haloacetic acids 5 (HAA5) in *[10 CSR 60-4.090(1)(D)]* **10 CSR 60-4.094**, systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If more than one (1) location exceeds the TTHM or HAA5 MCL, the system must include the locational running annual averages for all locations that exceed the MCL; and

(III) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all monitoring locations—the average and range of detection expressed in the same units as the MCL*[. The system is required to include individual sample results for the Initial Distribution System Evaluation (IDSE) conducted under 10 CSR 60-4.092 when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken]*;

E. For turbidity, the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in 10 CSR 60-4.050.

(I) The report should include an explanation of the reasons for measuring turbidity, such as: "Turbidity is a measure of the cloudiness of water. We monitor turbidity because it is a good indicator of the effectiveness of our filtration system."

(II) If an explanation of the reasons for measuring turbidity is included, it does not have to be included in the table but may be added as a footnote or narrative associated with the table;

F. For lead and copper, the ninetieth percentile value of the most recent round of sampling, the number of sampling sites exceeding the action level in that round, and the most recent source water results;

[G. For total coliform analytical results until March 31, 2016.

(I) The highest monthly number of positive compliance samples for systems collecting fewer than forty (40) samples per month; or

(II) The highest monthly percentage of positive compliance samples for systems collecting at least forty (40) samples per month;

H. For fecal coliform and E. coli, until March 31, 2016, the total number of positive compliance samples;]

*[I.]***G.** The likely source(s) of detected regulated contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one (1) or more of the typical sources for that contaminant which are most applicable to the system. The typical sources for a given contaminant are listed in Appendix B, included herein; and

*[J.]***H.** For *E. coli* analytical results under 10 CSR 60-4.022, the total number of positive samples.

5. If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

6. The table(s) must clearly identify any data indicating violations of MCLs or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of Appendix C, included herein.

7. For detected unregulated contaminants for which monitoring is required (except *Cryptosporidium*), the table(s) must contain the average and range at which the contaminant was detected. When detects of unregulated contaminants are reported, the report may include a brief explanation of the reasons for monitoring for unregulated contaminants using language such as: "Unregulated contaminants are those for which EPA has not established drinking water standards. The purpose of unregulated contaminant monitoring is to assist EPA in determining the occurrence of unregulated contaminants in drinking water and whether future regulation is warranted. Information on all the contaminants that were monitored for, whether regulated or unregulated, can be obtained from this water system or the Department of Natural Resources."

(E) Information on *Cryptosporidium*, Radon, and other Contaminants.

1. If the system has performed any monitoring for *Cryptosporidium, [including monitoring performed to satisfy the requirements of 40 CFR 141.143,]* which indicates that *Cryptosporidium* may be present in the source water or the finished water, the report must include:

A. A summary of the results of the monitoring; and

B. An explanation of the significance of the results. The system may use the following language or similar language for the explanation: "*Cryptosporidium* is a microbial parasite which is found in surface water throughout the U.S. Although *Cryptosporidium* can be removed by filtration, the most commonly used filtration methods cannot guarantee one hundred percent (100%) removal. Monitoring of our source water and/or finished water indicates the presence of these organisms. Current test methods do not enable us to determine if these organisms are dead or if they are capable of causing disease. Symptoms of infection include nausea, diarrhea, and abdominal cramps. Most healthy individuals are able to overcome the disease within a few weeks. However, immuno-compromised people have more difficulty and are at greater risk of developing severe, life threatening illness. Immuno-compromised individuals are encouraged to consult their doctor regarding appropriate precautions to take to prevent infection. *Cryptosporidium* must be ingested for it to cause disease, and may be passed through other means than drinking water."

2. If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

A. The results of the monitoring; and

B. An explanation of the significance of the results. The system may use the following language or similar language for the explanation: "Radon is a naturally occurring gas present in some ground water. It poses a lung cancer risk when the radon gas is released from water into air (as occurs during showering, bathing, or washing dishes or clothes), and a stomach cancer risk when you drink water containing radon. Radon gas released from drinking water is a relatively small part of the total radon in air. Other sources of radon gas are soils which enter homes through foundations, and radon inhaled directly while smoking cigarettes. Experts are not sure exactly what the cancer risk is from a given level of radon in your drinking water. If you are concerned about radon in your home, test kits are available to determine the total exposure level."

3. If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, systems are encouraged to report any results which may indicate a health concern. To determine if results may indicate a health concern, the department recommends that systems find out if the Environmental Protection Agency has proposed a National Primary Drinking Water Regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). Detects above a proposed MCL or health advisory level may indicate possible health concerns. For such contaminants, the department recommends that the report include:

A. The results of the monitoring; and

B. An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(F) Compliance with Department Regulations. In addition to the requirements of paragraph (2)(D)6., the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

1. Monitoring and reporting of compliance data.

2. Filtration and disinfection prescribed by 10 CSR 60-4.055. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: "Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."

3. Lead and copper control requirements prescribed by 10 CSR 60-15. For systems which fail to take one (1) or more actions prescribed by 10 CSR 60-15.010(4), 10 CSR 60-15.020, 10 CSR 60-15.030, 10 CSR 60-15.040, or 10 CSR 60-15.050, the report must include the applicable language of Appendix C to this rule for lead, copper, or both.

4. Treatment techniques for Acrylamide and Epichlorohydrin prescribed by 10 CSR 60-4.040(9). For systems which violate the requirements of 10 CSR 60-4.040(9), the report must include the relevant language from Appendix C to this rule.

5. Record keeping of compliance data.

[6. Special monitoring requirements prescribed by 10 CSR 60-4.110.]

*[7.]***6.** Violation of the terms of a variance, an exemption, or an administrative or judicial order.

(3) Required Additional Health Information.

(B) Arsenic.

[1.] A system that detects arsenic at levels above 0.005 mg/L and up to and including 0.01 mg/L must include in its report a short informational statement about arsenic, using language such as: "While your drinking water meets EPA's standard for arsenic, it does

contain low levels of arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems." The system may write its own educational statement, but only in consultation with the department.

[2. Beginning in the report due by July 1, 2002, and ending January 22, 2006, a community water system that detects arsenic above 0.01 mg/L and up to and including 0.05 mg/L must include the arsenic health effects language prescribed by Appendix C of this rule.]

(4) Report Delivery and Record Keeping.

(A) Systems serving ten thousand (10,000) or more persons must mail or otherwise directly deliver one (1) copy of the report to each customer annually.