

Appendix A to 10 CSR 60-8.030  
Converting MCL Compliance Values for Consumer Confidence Reports

Key

AL = Action Level  
MCL = Maximum Contaminant Level  
MCLG = Maximum Contaminant Level Goal  
MFL = million fibers per Liter  
mrem/year = millirems per year (a measure of radiation absorbed by the body)  
NTU = Nephelometric Turbidity Units

pCi/L = picocuries per Liter (a measure of radioactivity)  
ppm = parts per million, or milligrams per Liter (mg/L)  
ppb = parts per billion, or micrograms per Liter (µg/L)  
ppt = parts per trillion, or nanograms per Liter  
ppq = parts per quadrillion, or picograms per Liter  
TT = Treatment Technique

Contaminant	MCL in compliance units (mg/L)	Multiply by	MCL in CCR units	MCLG in CCR units
<b>Microbiological Contaminants</b>				
[1. Total Coliform Bacteria *Until March 31, 2016.]  ----- 1. Total Coliform Bacteria [*Beginning April 1, 2016.]	[(Systems that collect 40 or more samples per month) ≥5% of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample.]  ----- TT	-----	[(Systems that collect 40 or more samples per month) ≥5% of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample.]  ----- TT	[0]  ----- 0
[2. Fecal coliform and E. coli. *Until March 31, 2016.]  ----- 2. E. coli. [*Beginning April 1, 2016.]	[0]  ----- Routine and repeat samples are total coliform – positive and either is E coli – positive or system fails to take repeat samples following E coli- positive routine sample or system fails to analyze total coliform – positive repeat sample for E coli.	-----	[A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or E. coli positive.]  ----- Routine and repeat samples are total coliform – positive and either is E coli – positive or system fails to take repeat samples following E coli- positive routine sample or system fails to analyze total coliform – positive repeat sample for E coli.	[0]  ----- 0
3. Total organic carbon (ppm)	TT		TT	N/A
4. Turbidity	TT		TT (NTU)	N/A
5. Fecal TT Indicators (enterococci or coliphage)	TT			N/A
<b>Radioactive Contaminants</b>				
6. Beta/photon emitters	4 mrem/yr		4 mrem/yr	0
7. Alpha emitters	15 pCi/L		15 pCi/L	0
8. Combined radium	5 pCi/L		5 pCi/L	0
9. Uranium (pCi/L)	30µg/L		30	0

<b>Inorganic Contaminants</b>				
10. Antimony	0.006	1000	6 ppb	6
11. Arsenic	[0.05*] 0.010/**]	1000	[50 ppb*] 10 ppb/**]	[N/A*] 0/**]
[*These arsenic values are effective until Jan. 23, 2006.]				
]**These arsenic values are effective Jan. 23, 2006.]				
12. Asbestos	7 MFL		7 MFL	7
13. Barium	2		2 ppm	2
14. Beryllium	0.004	1000	4 ppb	4
15. Bromate (ppb)	0.010	1000	10	0
16. Cadmium	0.005	1000	5 ppb	5
17. Chloramines (ppm)	MRDL=4		MRDL=4	4
18. Chlorine (ppm)	MRDL=4		MRDL=4	4
19. Chlorine dioxide (ppb)	MRDL=0.8	1000	MRDL=0.8	800
20. Chlorite (ppm)	1		1	0.8
21. Chromium	0.1	1000	100 ppb	100
22. Copper	AL=1.3		AL=1.3 ppm	1.3
23. Cyanide	0.2	1000	200 ppb	200
24. Fluoride	4		4 ppm	4
25. Lead	AL=0.015	1000	AL=15 ppb	0
26. Mercury (inorganic)	0.002	1000	2 ppb	2
27. Nitrate (as Nitrogen)	10		10 ppm	10
28. Nitrite (as Nitrogen)	1		1 ppm	1
29. Selenium	0.05	1000	50 ppb	50
30. Thallium	0.002	1000	2 ppb	0.5
<b>Synthetic Organic Contaminants Including Pesticides and Herbicides</b>				
31. 2,4-D	0.07	1000	70 ppb	70
32. 2,4,5-TP [Silvex]	0.05	1000	50 ppb	50
33. Acrylamide			TT	0
34. Alachlor	0.002	1000	2 ppb	0
35. Atrazine	0.003	1000	3 ppb	3
36. Benzo(a)pyrene [PAH]	0.0002	1,000,000	200 ppt	0
37. Carbofuran	0.04	1000	40 ppb	40
38. Chlordane	0.002	1000	2 ppb	0
39. Dalapon	0.2	1000	200 ppb	200
40. Di(2-ethylhexyl)adipate	0.4	1000	400 ppb	400
41. Di(2-ethylhexyl)phthalate	0.006	1000	6 ppb	0
42. Dibromochloropropane	0.0002	1,000,000	200 ppt	0
43. Dinoseb	0.007	1000	7 ppb	7
44. Diquat	0.02	1000	20 ppb	20
45. Dioxin [2,3,7,8-TCDD]	0.00000003	1,000,000,000	30 ppq	0
46. Endothall	0.1	1000	100 ppb	100
47. Endrin	0.002	1000	2 ppb	2
48. Epichlorohydrin	TT		TT	0
49. Ethylene dibromide	0.00005	1,000,000	50 ppt	0
50. Glyphosate	0.7	1000	700 ppb	700
51. Heptachlor	0.0004	1,000,000	400 ppt	0
52. Heptachlor epoxide	0.0002	1,000,000	200 ppt	0
53. Hexachlorobenzene	0.001	1000	1 ppb	0
54. Hexachloro-cyclopentadiene	0.05	1000	50 ppb	50
55. Lindane	0.0002	1,000,000	200 ppt	200
56. Methoxychlor	0.04	1000	40 ppb	40
57. Oxamyl [Vydate]	0.2	1000	200 ppb	200
58. PCBs [Polychlorinated biphenyls]	0.0005	1,000,000	500 ppt	0
59. Pentachlorophenol	0.001	1000	1 ppb	0
60. Picloram	0.5	1000	500 ppb	500
61. Simazine	0.004	1000	4 ppb	4
62. Toxaphene	0.003	1000	3 ppb	0

Volatile Organic Contaminants				
63. Benzene	0.005	1000	5 ppb	0
64. Carbon tetrachloride	0.005	1000	5 ppb	0
65. Chlorobenzene	0.1	1000	100 ppb	100
66. o-Dichlorobenzene	0.6	1000	600 ppb	600
67. p-Dichlorobenzene	0.075	1000	75 ppb	75
68. 1,2-Dichloroethane	0.005	1000	5 ppb	0
69. 1,1-Dichloroethylene	0.007	1000	7 ppb	7
70. cis-1,2-Dichloroethylene	0.07	1000	70 ppb	70
71. trans-1,2-Dichloroethylene	0.1	1000	100 ppb	100
72. Dichloromethane	0.005	1000	5 ppb	0
73. 1,2-Dichloropropane	0.005	1000	5 ppb	0
74. Ethylbenzene	0.7	1000	700 ppb	700
75. Haloacetic Acids (HAA) (ppb)	0.060	1000	60	n/a
76. Styrene	0.1	1000	100 ppb	100
77. Tetrachloroethylene	0.005	1000	5 ppb	0
78. 1,2,4-Trichlorobenzene	0.07	1000	70 ppb	70
79. 1,1,1-Trichloroethane	0.2	1000	200 ppb	200
80. 1,1,2-Trichloroethane	0.005	1000	5 ppb	3
81. Trichloroethylene	0.005	1000	5 ppb	0
82. THMs [Total trihalomethanes]	0.10/.080	1000	100/80 ppb	n/a
83. Toluene	1		1 ppm	1
84. Vinyl Chloride	0.002	1000	2 ppb	0
85. Xylenes	10		10 ppm	10

Appendix B to 10 CSR 60-8.030  
Regulated Contaminants

Key

AL=Action Level  
MCL=Maximum Contaminant Level  
MCLG=Maximum Contaminant Level Goal  
MFL=million fibers per Liter  
mrem/year=millirems per year (a measure of radiation absorbed by the body)

NTU=Nephelometric Turbidity Units  
pCi/L=picocuries per Liter (a measure of radioactivity)  
ppm=parts per million, or milligrams per Liter (mg/L)  
ppb=parts per billion, or micrograms per Liter (µg/L)  
ppt=parts per trillion, or nanograms per Liter  
ppq=parts per quadrillion, or picograms per Liter  
TT=Treatment Technique

Contaminant (units)	MCLG	MCL	Major sources in drinking water
<b>Microbiological Contaminants</b>			
1. [Total Coliform Bacteria *Until March 31, 2016.]	[0]	[(Systems that collect 40 or more samples per month) ≥5% of monthly samples are positive;  (systems that collect fewer than 40 samples per month) 1 positive monthly sample.]	[Naturally present in the environment.]
----- Total Coliform Bacteria [*Beginning April 1, 2016.]	-----N/A	----- TT	----- Naturally present in the environment.

2. <i>[Fecal coliform and E. coli</i> <i>*Until March 31, 2016.]</i>	[0]	[A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or E. coli positive.]	[Human and animal fecal waste.]
----- <i>E. coli</i> <i>[*Beginning April 1, 2016]</i>	----- 0	----- TT	----- Human and animal fecal waste.
3. Total organic carbon (ppm)	N/A	TT	Naturally present in the environment.
4. Turbidity	N/A	TT	Soil runoff.
5. Fecal N/A Indicators (enterococci or coliphage)	TT		Human and animal fecal waste.
<b>Radioactive Contaminants</b>			
6. Beta/photon emitters (mrem/yr)	0	4	Decay of natural and man-made deposits.
7. Alpha emitters (pCi/L)	0	15	Erosion of natural deposits.
8. Combined radium (pCi/L)	0	5	Erosion of natural deposits.
9. Uranium	0	30	Erosion of natural deposits.
<b>Inorganic Contaminants</b>			
10. Antimony (ppb)	6	6	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.
11. Arsenic (ppb)	0	10	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes.
12. Asbestos (MFL)	7	7	Decay of asbestos cement water mains; Erosion of natural deposits.
13. Barium (ppm)	2	2	Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits.
14. Beryllium (ppb)	4	4	Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries.
15. Bromate (ppb)	0	10	By-product of drinking water disinfection.
16. Cadmium (ppb)	5	5	Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; Runoff from waste batteries and paints.
17. Chloramines (ppm)	MRDLG=4	MRDL=4	Water additive used to control microbes.
18. Chlorine (ppm)	MRDL=4	MRDL=4	Water additive used to control microbes
19. Chlorine dioxide (ppb)	MRDLG=800	MRDL=800	Water additive used to control microbes
20. Chlorite (ppm)	0.8	1	By-product of drinking water disinfection.
21. Chromium (ppb)	100	100	Discharge from steel and pulp mills; Erosion of natural deposits.
22. Copper (ppm)	1.3	AL=1.3	Corrosion of household plumbing systems; Erosion of natural deposits.
23. Cyanide (ppb)	200	200	Discharge from steel/metal factories; Discharge from plastic and fertilizer factories.
24. Fluoride (ppm)	4	4	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories.
25. Lead (ppb)	0	AL=15	Corrosion of household plumbing systems; Erosion of natural deposits.
26. Mercury [inorganic] (ppb)	2	2	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland.
27. Nitrate [as Nitrogen] (ppm)	10	10	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.
28. Nitrite [as Nitrogen] (ppm)	1	1	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.
29. Selenium (ppb)	50	50	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines.

30. Thallium (ppb)	0.5	2	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories.
<b>Synthetic Organic Contaminants Including Pesticides and Herbicides</b>			
31. 2,4-D (ppb)	70	70	Runoff from herbicide used on row crops.
32. 2,4,5-TP [Silvex] (ppb)	50	50	Residue of banned herbicide.
33. Acrylamide	0	TT	Added to water during sewage/wastewater treatment.
34. Alachlor (ppb)	0	2	Runoff from herbicide used on row crops.
35. Atrazine (ppb)	3	3	Runoff from herbicide used on row crops.
36. Benzo(a)pyrene [PAH] (nanograms/L)	0	200	Leaching from linings of water storage tanks and distribution lines.
37. Carbofuran (ppb)	40	40	Leaching of soil fumigant used on rice and alfalfa.
38. Chlordane (ppb)	0	2	Residue of banned termiticide.
39. Dalapon (ppb)	200	200	Runoff from herbicide used on rights of way.
40. Di(2-ethylhexyl)adipate (ppb)	400	400	Discharge from chemical factories.
41. Di(2-ethylhexyl)phthalate (ppb)	0	6	Discharge from rubber and chemical factories.
42. Dibromochloropropane (ppt)	0	200	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.
43. Dinoseb (ppb)	7	7	Runoff from herbicide used on soybeans and vegetables.
44. Diquat (ppb)	20	20	Runoff from herbicide use.
45. Dioxin [2,3,7,8-TCDD] (ppq)	0	30	Emissions from waste incineration and other combustion; Discharge from chemical factories.
46. Endothall (ppb)	100	100	Runoff from herbicide use.
47. Endrin (ppb)	2	2	Residue of banned insecticide.
48. Epichlorohydrin	0	TT	Discharge from industrial chemical factories; An impurity of some water treatment chemicals.
49. Ethylene dibromide (ppt)	0	50	Discharge from petroleum refineries.
50. Glyphosate (ppb)	700	700	Runoff from herbicide use.
51. Heptachlor (ppt)	0	400	Residue of banned termiticide.
52. Heptachlor epoxide (ppt)	0	200	Breakdown of heptachlor.
53. Hexachlorobenzene (ppb)	0	1	Discharge from metal refineries and agricultural chemical factories.
54. Hexachlorocyclopentadiene (ppb)	50	50	Discharge from chemical factories.
55. Lindane (ppt)	200	200	Runoff/leaching from insecticide used on cattle, lumber, gardens.
56. Methoxychlor (ppb)	40	40	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, and livestock.
57. Oxamyl [Vydate] (ppb)	200	200	Runoff/leaching from insecticide used on apples, potatoes, and tomatoes.
58. PCBs [Polychlorinated biphenyls] (ppt)	0	500	Runoff from landfills; Discharge of waste chemicals.
59. Pentachlorophenol (ppb)	0	1	Discharge from wood preserving factories.
60. Picloram (ppb)	500	500	Herbicide runoff.
61. Simazine (ppb)	4	4	Herbicide runoff.
62. Toxaphene (ppb)	0	3	Runoff/leaching from insecticide used on cotton and cattle.
<b>Volatile Organic Contaminants</b>			
63. Benzene (ppb)	0	5	Discharge from factories; Leaching from gas storage tanks and landfills.
64. Carbon tetrachloride (ppb)	0	5	Discharge from chemical plants and other industrial activities.
65. Chlorobenzene (ppb)	100	100	Discharge from chemical and agricultural chemical factories.
66. o-Dichlorobenzene (ppb)	600	600	Discharge from industrial chemical factories.
67. p-Dichlorobenzene (ppb)	75	75	Discharge from industrial chemical factories.
68. 1,2-Dichloroethane (ppb)	0	5	Discharge from industrial chemical factories.
69. 1,1-Dichloroethylene (ppb)	7	7	Discharge from industrial chemical factories.

70. cis-1,2-Dichloroethylene (ppb)	70	70	Discharge from industrial chemical factories.
71. trans-1,2-Dichloroethylene (ppb)	100	100	Discharge from industrial chemical factories.
72. Dichloromethane (ppb)	0	5	Discharge from pharmaceutical and chemical factories.
73. 1,2-Dichloropropane (ppb)	0	5	Discharge from industrial chemical factories.
74. Ethylbenzene (ppb)	700	700	Discharge from petroleum refineries.
75. Haloacetic Acids (HAA) (ppb)	n/a	60	By-product of drinking water disinfection.
76. Styrene (ppb)	100	100	Discharge from rubber and plastic factories; Leaching from landfills.
77. Tetrachloroethylene (ppb)	0	5	Discharge from factories and dry cleaners.
78. 1,2,4-Trichlorobenzene (ppb)	70	70	Discharge from textile-finishing factories.
79. 1,1,1-Trichloroethane (ppb)	200	200	Discharge from metal degreasing sites and other factories.
80. 1,1,2-Trichloroethane (ppb)	3	5	Discharge from industrial chemical factories.
81. Trichloroethylene (ppb)	0	5	Discharge from metal degreasing sites and other factories.
82. TTHMs [Total trihalomethanes] (ppb)	n/a	100/80	By-product of drinking water disinfection.
83. Toluene (ppm)	1	1	Discharge from petroleum factories.
84. Vinyl Chloride (ppb)	0	2	Leaching from PVC piping; Discharge from plastics factories.
85. Xylenes (ppm)	10	10	Discharge from petroleum factories; Discharge from chemical factories.

Appendix C to 10 CSR 60-8.030  
Health Effects Language

**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 wastes 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, 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) Total organic carbon. "Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection by-products. These by-products include trihalomethanes (THMs) and haloacetic acids (HAAs5). Drinking water containing these by-products in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer."

(4) 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."

(5) Fecal Indicators under the Ground Water Rule (*E. coli*, enterococci, or coliphage). "Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these 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."

**Radioactive Contaminants**

(6) Beta/photon emitters. "Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer."

(7) Alpha emitters. "Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer."

(8) Combined Radium 226/228. "Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer."

(9) Uranium. "Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity."

**Inorganic Contaminants**

(10) Antimony. "Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar."

(11) Arsenic. "Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer."

(12) Asbestos. "Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps."

(13) Barium. "Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure."

(14) Beryllium. "Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions."

(15) Bromate. "Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer."

(16) Cadmium. "Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage."

(17) Chloramines. "Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia."

(18) Chlorine. "Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort."

(19) Chlorine dioxide. "Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia."

(20) Chlorite. "Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia."

(21) Chromium. "Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis."

(22) Copper. "Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor."

(23) Cyanide. "Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid."

(24) Fluoride. "Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums."

(25) Lead. "Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure."

(26) Mercury (inorganic). "Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage."

(27) Nitrate. "Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome."

(28) Nitrite. "Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome."

(29) Selenium. "Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation."

(30) Thallium. "Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver."

#### Synthetic Organic Contaminants Including Pesticides and Herbicides

(31) 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."

(32) 2,4,5-TP (Silvex). "Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems."

(33) Acrylamide. "Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer."

(34) 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."

(35) 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."

(36) Benzo(a)pyrene (PAH). "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."

(37) 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."

(38) 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."

(39) Dalapon. "Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes."

(40) 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 toxic effects such as weight loss, liver enlargement, or possible reproductive difficulties."

(41) Di(2-ethylhexyl)phthalate. "Some people who drink water containing di(2-ethylhexyl)phthalate well 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."

(42) 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."

(43) Dinoseb. "Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties."

(44) 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."

(45) Diquat. "Some people who drink water containing diquat in excess of the MCL over many years could get cataracts."

(46) Endothall. "Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines."

(47) Endrin. "Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems."

(48) Epichlorohydrin. "Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer."

(49) 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."

(50) 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."

(51) 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."

(52) 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."

(53) 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."

(54) 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."

(55) Lindane. "Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver."

(56) Methoxychlor. "Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties."

(57) Oxamyl (Vydate). "Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects."

(58) PCBs (Polychlorinated biphenyls). "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."

(59) 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."

(60) Picloram. "Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver."

(61) Simazine. "Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood."

(62) 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."

### Volatile Organic Contaminants

(63) Benzene. "Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer."

(64) Carbon Tetrachloride. "Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer."

(65) Chlorobenzene. "Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys."

(66) o-Dichlorobenzene. "Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems."

(67) p-Dichlorobenzene. "Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood."

(68) 1,2-Dichloroethane. "Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer."

(69) 1,1-Dichloroethylene. "Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver."

(70) cis-1,2-Dichloroethylene. "Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver."

(71) trans-1,2-Dichloroethylene. "Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver."

(72) Dichloromethane. "Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer."

(73) 1,2-Dichloropropane. "Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer."

(74) Ethylbenzene. "Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys."

(75) Haloacetic Acids (HAA). "Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer."

(76) Styrene. "Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system."

(77) Tetrachloroethylene. "Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer."

(78) 1,2,4-Trichlorobenzene. "Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands."

(79) 1,1,1-Trichloroethane. "Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system."

(80) 1,1,2-Trichloroethane. "Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems."

(81) Trichloroethylene. "Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer."

(82) TTHMs (Total Trihalomethanes). "Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer."

(83) Toluene. "Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver."

(84) Vinyl Chloride. "Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer."

(85) Xylenes. "Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system."

*AUTHORITY: sections 640.100, RSMo Supp. 2014,] and [section] 640.125.1, RSMo [2000] 2016. Original rule filed July 1, 1999, effective March 30, 2000. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Sheri Fry, Public Drinking Water Branch, PO Box 176, Jefferson City, MO 65102 or to [sheri.fry@dnr.mo.gov](mailto: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 9—Record Maintenance**

**PROPOSED AMENDMENT**

**10 CSR 60-9.010 Requirements for Maintaining Public Water System Records.** The department is amending subsection (1)(F), removing language from subsection (4)(D), and correcting rule citations in subsections (4)(C) and (5)(A).

*PURPOSE: The purpose of this rulemaking is to clarify regulatory requirements for record maintenance by water suppliers at their premises for the indicated time period.*

(1) All suppliers of water to a public water system must retain records on their premises or at a convenient location near their premises as follows:

(F) Copies of public notices issued pursuant to 10 CSR 60-8.010 and certifications issued to the department pursuant to 10 CSR 60-7.010/(9)/(10) shall be kept for at least three (3) years after issuance; and

(4) Record-Keeping Requirements for the Ground Water Rule. These requirements are in addition to any other applicable record-keeping requirements of this rule.

(C) Records of decisions under 10 CSR 60-4.025(3)(A)6.B. and records of invalidation of fecal indicator-positive ground water source samples under 10 CSR 60-4.025(3)/(D)/(C). Documentation shall be kept for a period of not less than five (5) years.

(D) For consecutive systems, documentation of notification to the wholesale system(s) of total-coliform positive samples that are not invalidated under [10 CSR 60-4.020(3) until March 31, 2016, or under] 10 CSR 60-4.022(3) [beginning April 1, 2016,] shall be kept for a period of not less than five (5) years.

(5) Recordkeeping requirements of the Revised Total Coliform Rule.

(A) The system must maintain Level 1 and Level 2 assessment forms, regardless of who conducts the assessment, and documentation of corrective actions completed as a result of those assessments, or other available summary documentation of the sanitary defects and corrective actions taken under 10 CSR 60-4.022/(8)/(9) for department review. This record must be maintained by the system for a period not less than five (5) years after completion of the assess-

ment or corrective action.

*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](mailto: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 11—Backflow Prevention**

**PROPOSED AMENDMENT**

**10 CSR 60-11.010 Prevention of Backflow.** The department is amending subsection (4)(A) and removing subsection (4)(C) and renumbering the section.

*PURPOSE: This amendment allows the installation of backflow prevention assemblies approved by the American Society of Sanitary Engineering (ASSE).*

(4) Department-Approved Backflow Prevention Assemblies.

(A) [The department shall maintain a current list of approved backflow prevention assemblies and shall make this list available to the public upon request.] **Only those models of double check valve assemblies and reduced pressure principle backflow prevention assemblies which are approved by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California (USC) or the American Society of Sanitary Engineering (ASSE).**

[(C) Only those models of double check valve assemblies and reduced pressure principle backflow prevention assemblies which are approved by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California and are on the approved list maintained by the department are acceptable.]

*AUTHORITY: section 640.100, RSMo [(Cum. Supp. 1996)] 2016. Original rule filed May 4, 1979, effective Sept. 14, 1979. Rescinded and readopted: Filed July 11, 1986, effective Jan. 1, 1987. Amended: Filed Dec. 4, 1990, effective July 8, 1991. Amended: Filed Jan. 2, 1997, effective Dec. 29, 1997. 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 11—Backflow Prevention**

**PROPOSED AMENDMENT**

**10 CSR 60-11.030 Backflow Prevention Assembly Tester Certification.** The department is removing subsection (4)(D).

**PURPOSE:** *The amendment removes a provision that is no longer applicable.*

**(4) Recertification Requirements.**

*[(D) Any certified tester who fails the ABPA or ASSE examination within three (3) years of the effective date of this rule shall, upon request and submission of proof having taken and failed the examination, be granted a one (1)-time one hundred twenty (120)-day extension of his/her certification. The tester shall submit, or ensure that the instructor or testing organization submits, to the department a copy of the course roster and test results or other documentation which in the opinion of the department are equivalent.]*

**AUTHORITY:** *section 640.100, RSMo [(Cum. Supp. 1996)] 2016. Original rule filed Jan. 2, 1997, effective Dec. 29, 1997. 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 13—Grants and Loans**

**PROPOSED AMENDMENT**

**10 CSR 60-13.010 Grants for Public Water Supply Districts and Small Municipal Water Supply Systems.** The department is amending the purpose of the rule; amending subsections (1)(A) through (F); incorporating section 640.620, RSMo by reference into

subsection (1)(D) and incorporating 10 CSR 60-3.010 and 10 CSR 60-10.010 by reference into paragraph (1)(F)2.; amending subsection (2)(D); deleting section (3); amending and renumbering section (4); renumbering section (5); deleting section (6); and amending the authority for the rule.

**PURPOSE:** *The amendment revises the rule purpose, incorporates Missouri statute by reference, and eliminates duplicative and unnecessary regulatory requirements.*

**PURPOSE:** *This rule establishes the department's grant eligibility and application procedures requirements and for construction of projects at public water supply districts and rural community water system[s, and providing source water protection grants to support the Conservation Reserve Enhancement Program] pursuant to sections 640.600, 640.605, 640.615 and 640.620, RSMo.*

**(1) Application Requirements.**

*(A) [As required by section 640.615, RSMo, t]The [applicant] recipient must first apply with the agency or other financial source which is to furnish the primary financial assistance, and after the amount of that assistance has been determined, an application for a grant under this rule may be made to and processed by the department. [This requirement may be met by the submittal of a pre-application form and preliminary engineering report to the Missouri Water and Wastewater Review Committee. The] An application shall be submitted on forms provided by the department. The application shall be supported by the necessary documents and forms from other state and federal grant or lending agencies or private lending agencies to enable the department to establish eligibility and need for grant funds.*

*(B) The project for which the grant application is submitted shall comply with appropriate state and local laws, rules and ordinances and is limited to public water supply districts or municipal water supply systems of less than ten thousand (10,000) population.*

*(C) The ratio of contracted users to potential users shall not be less than seventy-five percent (75%).*

*[(C)](D) These grants are to be considered secondary sources of funding and, as such, shall in no case exceed [one thousand four hundred dollars (\$1,400)] the per [contracted] connection amount as specified in section 640.620, RSMo, fifty percent (50%) of the total eligible project cost, or five hundred thousand dollars (\$500,000), whichever is less.*

*[(D)](E) [Other than pre-approved financing costs, no more than fifty percent (50%) of of the total eligible cost will be reimbursed through the grant.] Grant funds [can] may be used for the following costs:*

1. Construction [contracts] costs for new construction, rehabilitation or upgrade of publicly owned treatment systems including upgrades made to comply with additional safe drinking water requirements.

2. Engineering [costs including] services and other services incurred in preparing the design[, planning and construction phase engineering if the costs are supported by an engineering agreement pre-approved by the department. The proportional cost of the engineering will be eligible when the project includes non-eligible construction costs.] drawings and specifications for the project. Such services must have been procured in accordance with state law to be eligible costs.

*[3. One hundred percent (100%) of the reasonable costs of a grant anticipation loan will be eligible. Departmental approval must be obtained prior to securing the grant anticipation loan. Grant anticipation loan costs will be approved when they are needed for cash flow purposes for the period between the grant award and the first payment from the department. The approved costs of the grant anticipation notes will be in addition to the approved grant amount.]*

*[(E)](F) The grant application packet shall contain the following*

information:

1. A preliminary engineering cost study for the proposed project including, but not limited to, the following items: development and administration costs; land, structures, right-of-way costs; legal costs; engineering costs; interest costs; equipment costs; contingencies; other costs; and total project costs;

2. An engineering report for the proposed project which is in accordance with *[accepted engineering practices, the current "Design Guide for Community Water System" and "Ten State Standards" and applicable rules should be considered for design standards]* **10 CSR 60-3.010 and 10 CSR 60-10.010;**

3. The information required to determine the cost per contract-connection;

4. The median annual household income of the residents in the district or community *[as determined in the latest federal census];*

5. Information required to determine the ratio of the contracted users to the potential users; *[and]*

6. An evaluation of the *[applicant] recipient's* technical, managerial, and financial (TMF) capacity on forms provided by the department. *A[n applicant] recipient* that does not meet the TMF capacity requirements established in 10 CSR 60-3.030 shall submit a plan outlining the steps the *[applicant] recipient* will take to meet the requirements. The plan shall show the *[applicant] recipient* will meet TMF requirements before the project is complete or within one (1) year of the award of the grant unless the department determines that a longer period of time is necessary*[/];*

**7. The ratio of contracted users to potential users; and**

**8. The number of acres being protected for any source water protection project.**

(2) Grant Priorities.

(D) Priority will be given to *[applicants] recipients* who consider regionalization or for projects that include regionalization.

*[(3) Approval and Payment of Grants Made and Amended Between March 4, 2007 and August 30, 2007.]*

*(A) The applicant shall be notified by the department when the grant application has been approved. Grant award shall be made upon receipt and approval of bid documents and executed contract documents.*

*(B) Full payment of the grant amount for the construction project less any payments processed prior to the date of this rule shall be made at the time of the department's receipt of the executed grant or grant amendment. The following provisions shall apply:*

*1. The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-1.102;*

*2. The full grant award amount, less any payments processed prior to the date of this rule, will be paid to the grantee for deposit into the grantee's established escrow account;*

*3. Grant funds in the escrow account may be used to pay up to fifty percent (50%) of the costs of construction, equipment and construction phase engineering as the costs are incurred; and*

*4. The grantee shall submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs.*

*(C) Any cost of work completed after the department's final inspection approval shall not be an eligible project cost. The grant amount will be reduced, if necessary, to reflect actual project costs as determined by the invoices submitted by the grantee.*

*(D) An audit to verify expenditures of grant funds may be*

*made by the department after the completion of each approved project. Any funds found not expended for the purposes listed in subsection (1)(D) of this regulation will be recovered.]*

*[(4)](3) Approval and Payment of Grant/s Made after August 30, 2007] Funds.*

*(A) The [applicant shall be notified by the department when the grant application has been approved. G]grant award shall be made upon receipt and approval of bid documents, [and] executed contract documents, and demonstration by the recipient that the funding for the total project costs has been secured. The department, based on the status of state funding, may elect to pay out the full grant amount at the time of grant award or to make payments to the grantee.*

*(B) If the department elects to make full payment of the grant amount for the construction project, payment shall be made at the time of the department's receipt of the executed grant document. The following provisions shall apply:*

*1. The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-1.102;*

*2. The full grant award amount, less any payments processed prior to the date of this rule, will be paid to the grantee for deposit into the grantee's established escrow account;*

*3. Grant funds in the escrow account may be used to pay up to fifty percent (50%) of the eligible costs shown in subsection (1)(D) of this rule except that one hundred percent (100%) of the reasonable costs associated with a grant anticipation loan will be eligible when this financing is pre-approved by the department.*

*4. The grantee shall submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs.*

*5. The bank account may earn interest; however, all withdrawals from the account must be documented with eligible invoices. If the project costs are inadequate to withdraw all the funds in the account, the balance must be refunded to the department.*

*(C) [If the department elects to make grant payments rather than fund the full grant, payment can be requested no more frequently than monthly.] The department will provide a payment request form for the grantee to use. The payment request must be supported by invoices that document the costs incurred.*

*(D) [Any cost of work completed after the department's final inspection approval shall not be an eligible cost.] The grant amount will be reduced, if necessary, to reflect actual project costs as determined by the invoices submitted by the grantee.*

*(E) An audit to verify expenditure of grant funds may be made by the department after the completion of each approved project. Any funds found not expended for the purposes listed in [paragraph (4)(B)3.] subsection (1)(D) of this regulation will be recovered.*

*(F) Any funds remaining in the escrow account [three (3)] two (2) years after the date of the initial grant payment will be recovered by the department. On grants that are paid incrementally by the department, no payments will be made after [three (3)] two (2) years from the initial grant award acceptance unless an extension is granted by the department.*

*(G) An audit to verify expenditure of grant funds may be made by the department [after the completion of each approved project]. Any funds found not expended for the purposes listed in subsection (1)(D) of this regulation will be recovered.*

*[(5)](4) If at any time during the first twenty (20)-years of the design life of the facility(ies) funded under this rule the facility is sold, leased or otherwise transferred, either outright or on a contract for deed or lease-purchase agreement, to other than a political subdivision of the state, the state shall require reimbursement of the grant funds. The total amount of the grant funds to be reimbursed shall be based on a twenty (20)-year straight-line depreciation. Grant funds to*

be reimbursed, shall become due and payable upon transfer of ownership of the facility(ies).

*[(6) Grants for Conservation Reserve Enhancement Program Participants.*

*(A) Program Description and Definition of Terms.*

1. The Conservation Reserve Enhancement Program (CREP) is a state-federal partnership program targeted to address specific water quality, soil erosion and wildlife habitat issues related to agricultural use. The CREP uses financial incentives to encourage farmers to voluntarily enroll in contracts to remove lands from agricultural production and, instead, to implement approved conservation reserve practices.

2. Approved conservation reserve practices in this program are: introduced grasses and legumes, native grasses, hardwood tree planting, wildlife habitat, contour grass strips, filter strips, riparian buffers, and wetland restoration.

3. The purpose of the grants provided under this section (6) is to provide an additional cash incentive ("rental enhancement payment") to farmers to encourage participation in CREP. The rental enhancement payment is a per-acre cash payment to participating farmers for land enrolled in the CREP that is in addition to other payments or financial assistance from federal or state funds and is a percentage of the annual base rental payment.

4. The annual base rental payment is the average weighted soil rental rate for the three (3) predominant soil types on the acreage offered. The U.S. Department of Agriculture maintains this information on a county-by-county basis for the entire country.

*(B) Application Requirements.*

1. As required by section 640.615, RSMo, the applicant must first apply with the agency or other financial source which is to furnish the primary financial assistance. After the amount of that assistance has been determined, an application for a grant shall be submitted on forms provided by the department. The application shall be supported by the necessary documents and forms from other state and federal grant or lending agencies or private lending agencies to enable the department to establish eligibility and need for grant funds.

2. The application shall contain:

A. The number of acres being protected;

B. The source for the local match;

C. A letter from the local soil conservation district approving the proposed practices to be implemented including a reasonable time line for completion;

D. A legal description of the project; and

E. The name and address of the farmer(s) (subrecipients) proposing the practices.

3. The project for which the grant application is submitted shall comply with appropriate state and local laws, rules and ordinances. These projects shall be limited to those areas with a source water protection program approved by the department.

4. These grants are to be considered secondary sources of funding and, as such, shall in no case exceed one thousand four hundred dollars (\$1,400) per contracted connection, fifty percent (50%) of the total project cost, or five hundred thousand dollars (\$500,000), whichever is less.

5. A local match for the rental enhancement payment grant is expected.

A. The department expects rental enhancement payment grants not to exceed the product of five percent (5%) of the annual base rental payment times the duration of the contract in years (for example, if the contract is in effect fifteen (15) years, the rental enhancement grant would equal

seventy-five percent (75%) of the total of all annual base rental payments), and expects this to be matched with an equal amount of other nonfederal funding.

B. Funding priority to those applicants that offer the highest percentage of matching funds. If matching funds are not available, the applicant may request a reduction or waiver of the match requirement, in which case the rental enhancement payment grant shall not exceed the product of ten percent (10%) of the annual base rental payment times the duration of the contract in years.

*(C) Approval and Payment of Grants.*

1. The applicant shall be notified by the department when the grant application has been approved.

2. Payments will be made to the recipient after completion of the approved practice. These grant payments shall be made immediately available to the farmer (subrecipient) implementing the practices. Grant payments to the recipient may be combined to cover multiple subrecipients.

3. The payment procedures in subsections (5)(B) and (5)(C) of this rule may be used by the department in order to better manage the cash available to the department. The department will notify the CREP fund recipient if this occurs.

(D) If a subrecipient fails to carry out the terms and conditions of the CREP contract, the state may require reimbursement of the rental enhancement payment portion of the grant with interest.]

**AUTHORITY:** sections 640.600, 640.605, 640.615, and 640.620, RSMo [2000] 2016. This rule was previously filed as 10 CSR 60-2.020 Sept. 21, 1973, effective Oct. 1, 1973. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 13, 2018.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to [fac@dnr.mo.gov](mailto:fac@dnr.mo.gov). To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for 10 a.m. on August 16, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Springs/Roaring River Conference Rooms, 1730 East Elm Street, Jefferson City, MO 65101.

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

**PROPOSED AMENDMENT**

**10 CSR 60-13.020 Drinking Water State Revolving Fund [Loan] Program.** The department is amending the purpose of the rule; incorporating section 1452 of the Safe Drinking Water Act by reference into the purpose of the rule; amending section (1); incorporating 640.107, RSMo, and 40 CFR 35.3505 by reference into paragraph (1)(A)1.; incorporating 40 CFR 35.3520 by reference into subsection (1)(B); incorporating 40 CFR 35.3555 and section 640.107, RSMo into subsection (1)(E); deleting subsection (1)(C); renumbering subsections (1)(D) and (E); amending sections (2);

incorporating 10 CSR 60-3.010 and 10 CSR 60-10.010 by reference into subsection (2)(D); incorporating 10 CSR 60-13.030 by reference into paragraph (2)(G)6.; incorporating 40 CFR 35.3575 by reference into paragraph (2)(G)7.; incorporating 2 CFR part 200 subpart F by reference into subparagraph (2)(I)2.B.; incorporating 109 RSMo by reference into subsection (2)(J); incorporating 67.5060 RSMo by reference into subsection (2)(L); incorporating 290.210-290.340, RSMo and 8 CFR 30 chapter 3 by reference into paragraph (2)(M)8.; incorporating 2 CFR 200.321 and 40 CFR part 33 by reference into paragraph (2)(M)9.; incorporating 2 CFR part 180 subpart C by reference into paragraph (2)(M)10.; incorporating 29 CFR 5.5 by reference into paragraph (2)(M)13.; incorporating 34.057 RSMo. by reference into paragraph (2)(Q)1.; deleting subsections (2)(A), (C), (E), (F), and (R); renumbering subsections (2)(B), (D), (G) through (Q); adding a new subsection (2)(N), titled *Procurement of Design-build Services*; incorporating 67.5060 RSMo by reference into the new subsection (2)(N); deleting sections (3) and (4); amending subsections (5)(A), (C), (D), and (F); incorporating 40 CFR 35.3525 by reference into paragraph (5)(F)1.; deleting subsections (5)(B) and (E); renumbering subsections (5)(A), (C), (D), (F), and (G); adding new subsections (5)(E), titled *Target Interest Rate*, and (5)(G); amending section (6); renumbering section (6); and adding a new section (5), titled *Disadvantaged Communities*.

**PURPOSE:** *This amendment removes language that is no longer applicable, clarifies current regulatory language, updates new state and federal requirements, and removes duplicative and unnecessary regulatory requirements.*

**PURPOSE:** *This rule sets forth eligibility and [application] program requirements for [applicants for loans] financial assistance from the Drinking Water State Revolving Fund [established] program authorized pursuant to section 1452 of the federal Safe Drinking Water Act, as amended, and in section 640.107, RSMo [as a subfund of the Water and Wastewater Loan Fund, and describes the evaluation and priority point award process].*

*[The rule establishes requirements for loan recipients, including binding commitments, pre-closing, loan closing, accounting, record keeping, procurement and contract requirements. Eligible and noneligible costs are specified. Criteria for project by-pass, project removal and modification of funding are established. The leveraged loan structure for the Drinking Water Revolving Fund established in section 640.107, RSMo as a subfund of the Water and Wastewater Loan Fund is described.]*

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

(1) Application and Eligibility Requirements. This section applies to [applicants for loan] recipients of financial assistance from the Drinking Water State Revolving Fund [established in section 640.107, RSMo, as a subfund of the Water and Wastewater Loan Fund] (DWSRF) program. Recipients of assistance [under the American Recovery and Reinvestment Act (ARRA) of 2009] are subject to the requirements of this regulation, unless otherwise specified. **The Code of Federal Regulations referenced in the regulation are incorporated as published July 1, 2017. The regulations are incorporated by reference without any later 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>. To obtain the decennial median household income visit the U.S. Census Bureau American Fact Finder webpage [https://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml](https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml), contact the U.S. Census Bureau, 4600 Silver Hill Road Suitland, MD 20746, or toll free at (800) 923-8282.**

(A) Definitions.

1. The terms and definitions in **section 640.107, RSMo, 10 CSR 60-2.015, and 40 CFR 35.3505**, apply to the rules in this chapter.

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

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

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

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

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

E. **Drinking Water State Revolving Fund (DWSRF)—The entire program established under section 1452 of the federal Safe Drinking Water Act (SDWA), which includes DWRF loans and other activities allowed under that section of the SDWA.**

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

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

[H.]2. **Initiation of operation—The date when the first [construction contract is completed and the] constructed component is capable of being used for its intended purpose.**

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

3. **PSC—Missouri Public Service Commission.**

4. **EIERA—State Environmental Improvement and Energy Resources Authority.**

5. **Loan—Unless stated otherwise, loan generally refers to the agreement to lend money to an eligible recipient. The type of agreement could be a loan agreement, bond purchase agreement, or other debt instrument.**

6. **Recipient—The recipient of financial assistance from programs supported or secured by the Water and Wastewater Loan Fund, the Water and Wastewater Loan Revolving Fund, DWSRF bonds issued by EIERA, or state bond funds.**

(B) **Eligible [Public Water Systems] Projects and Project-Related Costs. This subsection incorporates the federal requirements in 40 CFR 35.3520.**

[1. *Community water systems and not-for-profit non-community water systems located in Missouri that are not federally owned are eligible to apply for DWRF loans. Eligibility to apply does not guarantee assistance or eligibility for assistance.*

2. *All other types of public water systems are not eligible to apply for DWRF loans.*

*(C) Eligible Projects.*

1. Assistance may be provided for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which will facilitate compliance with national primary drinking water regulations applicable to the system or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (SDWA).

2. Projects to address federal SDWA health standards identified in the intended use plan or in the DWRf loan priority point criteria that have been exceeded and projects to prevent future violations of the rules are eligible for funding. These include projects to maintain compliance with existing regulations for contaminants with acute health effects (such as the Surface Water Treatment Rule, the Total Coliform Rule, and nitrate standard) and regulations for contaminants with chronic health effects (such as Lead and Copper Rule, Phases I, II, and V Rules, and safety standards for total trihalomethanes, arsenic, barium, cadmium, chromium, fluoride, mercury, selenium, combined radium-226, -228, and gross alpha particle activity).

3. Projects to address imminent federal SDWA health standards (identified in the annual intended use plan) that have been exceeded or to prevent future violations of the anticipated rules are eligible for funding.

4. Projects to replace aging infrastructure are eligible if they are needed to maintain compliance or further the public health protection objectives of the federal SDWA. Examples of these include projects to:

A. Rehabilitate or develop sources (excluding reservoirs, dams, dam rehabilitation and water rights) to replace contaminated sources;

B. Install or upgrade treatment facilities if, in the department's opinion, the project would improve the quality of drinking water to comply with primary or secondary standards;

C. Install or upgrade storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering the water system; and

D. Install or replace transmission and distribution pipes to prevent contamination caused by leaks or breaks in the pipe, or improve water pressure to safe levels.

5. Projects to consolidate water supplies (for example, when individual homes or other public water supplies have a water supply that is contaminated, or the system is unable to maintain compliance for financial or managerial reasons) are eligible for DWRf loan assistance.

6. The purchase of a portion of another system's capacity is eligible for a loan if it is the most cost-effective solution.]

*[(D)](C) Application Procedures.*

1. Application deadline.

A. Applications must be postmarked or received by the Water Protection Program by the calendar date established in the annual application package as the application deadline. The deadline will be no sooner than sixty (60) days after the application package is made available. The department may extend this deadline if insufficient applications are received to use all of the funds expected to be available. **Applications are valid for two (2) intended use plan cycles. Applications received after the deadline may be placed on a priority list as determined by the commission based on availability of funds.**

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

*[C.]B. [Applicants] Recipients that have an outstanding [state revolving fund (SRF)] loan balance with the department*

must be in compliance with the terms and conditions of their loan agreements to be eligible for additional funding.

2. *[Applicants] Recipients* shall provide:

A. A completed application form provided by the department;

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

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

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

E. Any additional information request by the department to determine the *[applicant's] recipient's* compliance history and technical, managerial, and financial capacity as required under the federal **Safe Drinking Water Act (SDWA)**; and

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

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

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

*[(E)](D) [Evaluation and Priority Point Award] Intended Use Plan. The department will prepare an annual intended use plan in accordance with 40 CFR 35.3555 and section 640.107, RSMo. The annual intended use plan is approved by the commission after public notice and public comment.*

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

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

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

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

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

*6. The department may hold a separate competition for*

projects seeking funding whenever appropriate and allowed by federal law.]

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

[(A) Leverage Loans. The department may direct projects toward the leveraged loan structure described in section (4) of this rule. The department's decisions shall be based upon the amount of DWRf assistance funds available, the amount of DWRf assistance funds requested, the size of the project, the credit worthiness of the applicant and the applicant's authority to incur long-term debt. For such projects, the requirements in section (4) apply in addition to the requirements in sections (1)–(3) of this rule.]

[(B)](A) Fees.

1. [Under the authority of section 644.106, RSMo,] **Loan Fees.** [t/The department may charge [an administrative fee on assistance made pursuant to Chapter 644, RSMo, which includes the Water and Wastewater Loan Fund. The Drinking Water Revolving Fund is a subfund of that fund. The department and Clean Water Commission set the administrative fee under their authority in section 644.106, RSMo and the fee does] **annual loan fees** not to exceed one-half percent [(1%)] **(0.5%)** of the outstanding loan balance of each [DWRf] loan, **except as provided under paragraph (2)(A)2.**

2. Additional administrative fees. Additional administrative fees may be assessed by the department, [under the authority of section 644.106, RSMo,] at the time the administration fee is calculated for failure by a recipient to **pay debt service on the loan** or submit approved documents to the department (for example, operation and maintenance manuals, [plan of operation,] enacted user charge and water use ordinances, executed contract documents) in accordance with the time frames provided under the program agreement entered into by the recipient. The additional fee will be an additional one-tenth percent **(0.1%)** per month that the document remains delinquent. The additional fee **for delinquent documents** will be collected only during the year in which the document is not submitted.

[(C) Equivalency Projects. For equivalency projects the recipient and its contractors must comply with all requirements associated with funds provided under the federal Safe Drinking Water Act. The department will identify equivalency projects and notify potential loan recipients.]

[(D)](B) **Engineering Report and Design.** **Engineering report and [D]design** of projects for [community] **eligible** water systems shall conform [with accepted engineering practices. Design of projects for applicable noncommunity water systems shall conform] with [accepted engineering practices and the current "Standards for Non-Community Public Water Supplies." A preliminary design submittal, including the design criteria and facilities layout sheet, may be required at approximately the twenty percent (20%) design stage] **10 CSR 60-3.010 and 10 CSR 60-10.010.**

[(E) Public Participation. The public must be allowed an opportunity to exchange ideas with the applicant during project development. Public participation must be preceded by timely distribution of information and must occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action. At a minimum, the recipient must provide the opportunities for public participation listed in this subsection, except that Public Service Commission (PSC)-regulated utilities must proceed through appropriate procedures established by the PSC.]

1. A public meeting shall be conducted to discuss the alternative engineering solutions. Public notice of the meeting should be published at least thirty (30) days prior to the meeting date in one (1) or more local newspapers, as needed to cover the project service area. The recipient shall prepare a transcript, recording, or other complete record of the proceeding along with proof of publication and submit it to the department and make it available at no more than cost to anyone who requests it. A copy of the record should be available for public review.

2. Prior to approval of the draft user charge ordinance, a public meeting shall be conducted to address the proposed user charge rates. Public notice of the meeting should be published at least thirty (30) days prior to the meeting date in one (1) or more local newspapers, as needed to cover the project service area. The recipient shall prepare a transcript, recording, or other complete record of the proceeding along with proof of publication and submit it to the department and make it available at no more than cost to anyone who requests it. A copy of the record should be available for public review.

3. Public participation requirements for environmental review are in 10 CSR 60-13.030.

[(F) Binding Commitment. In order for the department to offer to enter into a binding commitment, all documents and information required in this subsection (2)(F) must be submitted to the department at least sixty (60) days prior to the applicant's binding commitment deadline established by the department.]

1. **Engineering report.** The applicant must submit an engineering report that meets or exceeds the requirements in this subsection and applicable public participation requirements in subsection (2)(E) of this rule.

A. **Engineering reports of projects for community water systems** must be in accordance with accepted engineering practices. References such as the current "Design Guide for Community Water Systems" and "Ten State Standards" should be considered for design standards.

B. **Engineering reports of projects for non-community water systems** must be in accordance with accepted engineering practices and the current "Standards for Non-Community Public Water Supplies."

C. The most feasible, economic and environmentally sound alternatives for providing safe drinking water must be studied and evaluated.

D. An estimate of the average user charge including documentation of the basis of the estimate must be included.

E. An assessment of the environmental conditions and impact of the proposed project on the environment is required.

2. **Detailed project budget.** A detailed proposed project budget shall be submitted.

3. **Project schedule.** A proposed project schedule shall be submitted, including, at a minimum:

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

B. Construction completion;

C. Initiation of operation; and

D. Project completion.

4. **Environment review.** All applicable environmental review requirements in 10 CSR 60-13.030 must be completed before the department enters into a binding commitment with the applicant.]

[(G)](C) **Additional Preclosing Requirements.** [After the department has entered into a binding commitment with the applicant, the following requirements must be met before loan closing can occur.] All documents [and information] necessary

to provide assistance must be submitted to the department in sufficient time to allow adequate time for review and *[must be approved sixty (60) days]* **approval** prior to the loan closing date established by the department. The department may extend deadlines if justified.

1. Final document submittal. The following documents must be submitted to and approved by the department:

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

B. *[Any and all changes to the proposed project schedule]* **Proposed project schedule. The following represents the minimum requirements for the project schedule;**

(I) **Construction start defined as date of issuance of notice to proceed;**

(II) **Construction completion;**

(III) **Initiation of operation; and**

(IV) **Project completion;**

C. *[Draft e]*Engineering contract as described in subsection (2)*[(L)](G)* of this rule and the appropriate procurement documentation as described in subsection (2)*(H)* or subsection (2)*(N)*;

D. **Engineering report and** *[P]*plans and specifications certified by a registered professional engineer licensed in Missouri;

E. Certification of easements and real property acquisition. Recipients of assistance under the DWSRF *[loan]* program shall have obtained title or option to the property or easements for the project prior to loan closing;

F. Draft user charge and water use ordinances as described in paragraphs (2)*[(G)](C)*3. and 4. of this rule; and

G. Other information or documentation deemed necessary by the *[applicant]* **recipient** or the department to ensure the proper expenditure of DWSRF funds.

2. Projects serving multiple water systems. Prior to closing, if the project serves two (2) or more public water systems, the *[applicant]* **recipient** shall submit executed agreements or contracts between the public water systems for the financing, construction, and operation of the proposed facilities. *[At a minimum, the agreement or contract shall include:]*

*[A. The operation and maintenance responsibilities of each party upon which the costs are allocated;*

*B. The formula by which the costs are allocated; and*

*C. The manner in which the costs are allocated.]*

3. User charge (water rate) ordinance.

A. For non-PSC-regulated utilities:

(I) *[Loan r]*Recipients are required to maintain, for the useful life of the project, user charge ordinances approved by the department. User charge ordinances, at a minimum, shall be adopted prior to financing and implemented by the initiation of operation of the financed project. *A copy of the enacted ordinances shall be submitted prior to initiation of operation;*

(II) The user charge system shall be designed to produce adequate revenues required for the operation and maintenance, including a reserve for equipment replacement. A one hundred ten percent (110%) debt service reserve may be required. Each user charge system shall:

(a) Be based upon actual use;

(b) Include an adequate financial management system that will accurately account for revenues generated by the system, debt service and loan fee costs, and expenditures for operation and maintenance, including replacement based on an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy, and administration; and

(c) Provide for an annual review of charges; and

(III) The *[loan]* recipient shall submit to the department,

for review and approval, the methodology used for determining user rates.

B. PSC-regulated utilities shall comply with the requirements of the PSC in developing and implementing their user charge ordinances but shall ensure that sufficient rates and charges are in effect to satisfy bond covenants throughout the term of the loan.

4. Water use ordinance. *[Applicants]* **Recipients** dependent on user fees for debt payment or operation and maintenance expenses shall have in place an enforceable water use ordinance prior to loan closure. The water use ordinance shall address water system responsibilities and customer responsibility relating to installation and maintenance of water meters and water lines; easements; alternative sources of water; and provisions for breach of contract and liquidated damages. The water use ordinance is intended to be an effective business tool for the efficient management of the water system.

5. Additional requirements for privately-owned public water systems. Privately-owned public water systems must provide documentation from the Missouri Department of Economic Development showing an allocation under Missouri's private activity bond cap and must obtain any necessary approvals from the *[Public Service Commission]* PSC.

6. **Environmental review. All applicable environmental review requirements in 10 CSR 60-13.030 must be completed before the department enters into a binding commitment with the recipient.**

7. **Cross-cutters. Recipients shall comply with Federal cross-cutting authorities unless an exemption is provided through department policy, as outlined in accordance with 40 CFR 35.3575.**

*[(H)](D)* Operation and Maintenance.

*[1. Plan of operation.*

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

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

*[2.]1. Operation and maintenance manual. The recipient must make provision satisfactory to the department for assuring effective operation and maintenance of the constructed project throughout its design life. If required by the department, recipients of assistance for construction of mechanical facilities must make provision satisfactory to the department to develop for approval an operation and maintenance manual. The operation and maintenance manual, if required, must be submitted by *[eighty percent (80%)]* final construction completion.*

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

*[4.]3. Certified operator. The recipient must make provision satisfactory to the department for assuring that certified operator(s) and maintenance personnel are hired in accordance with an approved schedule.*

*[5.]4. System certification. If required by the department, *[O]*one (1) year after initiation of operation of the constructed public water system, the recipient shall certify to the department whether or not the public water system meets the project performance standards. Any statement of noncompliance must be accompanied by a corrective action report containing an analysis of the cause of the project's*

inability to meet performance standards, actions necessary to bring it into compliance, and reasonably scheduled date for positive certification of the project. Timely corrective action shall be executed by the recipient.

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

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

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

B. An acceptable accounting system includes books and records showing all financial transactions related to the construction project. The system must document all receipt and disbursement transactions. *It also must* and group them by type of account (for example, asset, revenue, expense, etc.) and by individual expense account (for example, personnel salaries and wages, subcontract costs, etc.) The recipient shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly the amount, receipt, and disposition by the recipient for all assistance received for the project and the total costs of the project of whatever nature incurred for the performance of the project for which the assistance was awarded. *[Some of the minimum standards for an adequate accounting system are:]*

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

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

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

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

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

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

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

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

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

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

*[(XI)]* Financial reports should be prepared monthly to provide project managers with a timely, accurate status of

*the construction project and costs incurred.]*

## 2. Annual *[audits] Audited Financial Statements.*

A. The recipient shall *[request] cause* an audit of the *[system] recipient's annual financial report* for the prece/e/ding fiscal year to be made by a certified public accountant or firm of certified public accountants employed for that purpose.

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

(II) Within one hundred eighty (180) days after the end of the recipient's fiscal year, a copy of the annual *[audit] financial report* will be submitted to the department **as long as the recipient is in loan repayment status. A recipient who cannot meet this deadline will notify the department in writing of the delay with the expected date of completion.**

*[(III)] Annual audits shall be required as long as the recipient is in loan repayment status.]*

B. As required by federal law, *[the]* a recipient must comply with the provisions of *[OMB Circular A-133] 2 CFR part 200 subpart F* governing the audit of state and local governments. **When applicable, a copy of the recipient's annual audit, including all written comments and recommendations of the accountant, will be furnished to the department within the time period as provided in 2 CFR part 200 subpart F.**

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

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

## *[(J)](F)* Record Retention Requirements.

*[1. Construction-related activities. At a minimum, t]The recipient must retain all [financial, technical, and administrative] records [related to the planning, design, and construction of the project for a minimum period of seven (7) years following receipt of the final construction payment from DWRF loan program associated assistance or the recipient's acceptance of construction, whichever is later. Records shall be available to state, federal officials, or both, for audit purposes during normal business hours during that period.] according to the retention schedules established by chapter 109, RSMo. A longer retention period may be required under the loan documentation.*

*[2. Post-construction financing activities. At a minimum, the recipient must retain all financial and administrative records related to post-construction project financing for a minimum period of seven (7) years following full repayment of any assistance on the DWRF loan program project.]*

*[(K)](G)* Minimum Requirements for Architectural or Engineering Contracts.

1. General requirements *[for subagreements. The subagreement]* must:

A. Be necessary for and directly related to the accomplishment of the project;

B. Be a lump sum or cost plus fixed fee contract in the form of a bilaterally executed written agreement;

C. Be for monetary consideration;

D. Not be in the nature of a grant or gift;

E. State a time frame for performance;

F. State a cost which cannot be exceeded except by amendment; and

G. State provisions for payment.

2. The nature, scope, and extent of work to be performed during construction should include, but not be limited to, the following:

*[A. Preparing a plan of operation if required by the department that meets the requirements of paragraph*

(2)(H)1. of this rule;]

[B./A. Preparing an operation and maintenance manual if required by the department that meets the requirements of paragraph (2)/(H)2.](D)1. of this rule;

[C./B. Assisting the recipient in letting bids;

[D./C. Assisting the recipient in reviewing and analyzing construction bids and making recommendations for award;

[E./D. Inspecting during construction to ensure conformance with the construction contract documents unless waived by the department; and

[F./E. Assisting with facility operation for purposes of certifying that the facility is operating properly one (1) year after start-up to meet the requirements of paragraph (2)(D)4. of this rule.

3. Executed engineering contract submittal. The final approved executed engineering contract must be submitted prior to the first reimbursement request.

[(L)/(H) Procurement of Engineering Services. The procurement of engineering services shall be in accordance with sections 8.285 through 8.291, RSMo or section 67.5060, RSMo.

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

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

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

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

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

5. Experience clause restriction. **The general use of experience clauses is restricted to special cases.**

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

**B. The general use of experience clauses requiring contractors to have a record of satisfactory experience for a specified period of time or the completion of a specified number of similar projects is restricted to special cases where the recipient's engineer adequately justifies any such requirement in writing. Such justification shall not unduly restrict competition or result in excessive bonding requirements. Where this justification has been made, submission of a bond or deposit shall be permitted instead of the specified experience. The period of time for which the bond or deposit is required shall not exceed the experience**

period specified;

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

7. Bonding. On construction contracts exceeding [one hundred] fifty thousand dollars [(\$100,000)] (\$50,000), the bid documents shall require each bidder to furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition, the bid documents must require the successful bidder to furnish performance and payment bonds, each of which shall be in an amount not less than one hundred percent (100%) of the contract price;

8. State wage determination[. The bid documents shall contain the current prevailing wage determination issued by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards, if otherwise required by law] in accordance with section 290.210-290.340 RSMo and 8 CFR 30 chapter 3;

9. [Small, minority, women's, and labor surplus area businesses.] **Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms requirements in accordance with 2 CFR 200.321 and 40 CFR part 33.**

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

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

C. Affirmative steps shall include the following:

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

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

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

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

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

10. Debarment/suspension[. The recipient agrees to deny participation in services, supplies, or equipment to be procured for this project to any debarred or suspended firms or affiliates in accordance with Executive Order 12549. The recipient acknowledges that doing business with any party listed on the List of Debarred, Suspended, or Voluntarily Excluded Persons may result in disallowance of project costs under the assistance agreement] requirements in accordance with 2 CFR part 180 subpart C;

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

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

13. Contractors [for ARRA-funded projects] must comply

with the Davis-Bacon [Act (40 U.S.C. 276a–276a-7)] requirements in accordance with 29 CFR 5.5. The current Davis-Bacon wage rate from the United States Department of Labor must be incorporated in the bid documents; and

14. *Buy American provision. For ARRA-funded projects, the specifications must include the following statement or a similar statement in accordance with federal guidance: "All iron, steel, and manufactured goods used in this project must be produced in the United States unless a) a waiver is provided to the owner by the Environmental Protection Agency or b) compliance would be inconsistent with United States obligations under international agreements."* **American Iron and Steel. Specifications shall adhere to requirements to utilize American Iron and Steel for projects involving the construction, alteration, maintenance, or repair of a public water system, when applicable. The department will publish the American Iron and Steel requirements in the annual intended use plan.**

*[(N)](J)* Construction Equipment and Supplies Procurement. This section describes the minimum procurement requirements which the recipient must use under the *[loan]* DWSRF program.

1. Small purchases. A small purchase is the procurement of materials, supplies, and services when the aggregate amount involved in any one (1) transaction does not exceed one hundred fifty thousand dollars *[( \$ 100,000 )]* **(\$150,000)**. The small purchase limitation of one hundred fifty thousand dollars *[( \$ 100,000 )]* **(\$150,000)** applies to the aggregate total of an order, including all estimated handling and freight charges, overhead, and profit to be paid under the order. In arriving at the aggregate amount involved in any one (1) transaction, all items which should properly be grouped together must be included. Department *[approval]* concurrence and a minimum of three (3) quotes must be obtained prior to purchase.

2. Bidding requirements. This paragraph applies to procurement of construction equipment, supplies, and construction services in excess of one hundred fifty thousand dollars *[( \$ 100,000 )]* **(\$150,000)** awarded by the recipient for any project. No contract shall be awarded until the department has approved the formal advertising and bidding.

#### A. Formal advertising.

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

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

#### B. Bid document requirements and procedure.

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

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

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

(c) A clear explanation of the method of bidding and the

method of evaluation of bid prices and the basis and method for award of the contract or rejection of all bids;

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

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

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

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

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

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

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

(k) Departmental concurrence with contract award must be obtained prior to actual contract award. Recipients shall notify the department in writing of each proposed construction contract which has an aggregate value over one hundred fifty thousand dollars *[( \$ 100,000 )]* **(\$150,000)**. The recipient shall notify the department within ten (10) calendar days after the bid opening for each construction subagreement. The notice shall include:

I. Proof of advertising;

II. Tabulation of bids;

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

IV. Recommendation of award;

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

VI. Copy of the bid bond;

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

VIII. Suspension/Debarment Certification;

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

X. MBE/WBE Worksheet;

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

XII. Site certification, if not previously submitted;  
and

XIII. *[For equivalency projects,]* Certification of Nonsegregated Facilities.

*[(O)](K)* Conflict of Interest.

1. No employee, officer, or agent of the recipient shall participate in the selection, award, or administration of a subagreement supported by state or federal funds if a conflict of interest, real or apparent, would be involved. This conflict would arise when—

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

B. An organization which may receive or has been awarded a subagreement employs, or is about to employ, any person listed in subparagraph (2)*[(O)](K)*1.A. of this rule.

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

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

1. Unit prices.

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

B. Unit prices of new items shall be negotiated;

2. A lump sum to be negotiated; and

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

*[(Q)](M)* Progress Payments to Contractors.

1. Recipients should make prompt progress payments to prime contractors and prime contractors should make prompt progress payments to subcontractors and suppliers for eligible construction, supplies, and equipment costs **in accordance with section 34.057, RSMo.**

*[A. For purposes of this section, progress payments are defined as follows:*

*(I) Payments for work in place; and*

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

*2. Appropriate provisions regarding progress payments must be included in each contract and subcontract.]*

*[3.]2. Retention from progress payments. [The recipient may retain a portion of the amount otherwise due the contractor.] The amount the recipient retains [shall] **should** be in accordance with section 34.057, RSMo.*

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

*1. All project costs will be eligible if they meet the following tests:*

*A. Reasonable and cost effective;*

*B. Necessary for the approved project including*

*required mitigation; and*

*C. Meet the eligibility requirements of the federal Safe Drinking Water Act.*

*2. Eligible costs include, at a minimum:*

*A. Engineering services and other services incurred in planning and in preparing the design drawings and specifications for the project. These services and their related expenses can be reimbursed based on actual invoices to be submitted after loan closing or by means of an allowance. For invoice reimbursement, the department must have a copy of the executed engineering contract for planning and design of the project;*

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

*(I) Office engineering;*

*(II) Construction surveillance;*

*(III) Stakeout surveying;*

*(IV) As-built drawings;*

*(V) Special soils/materials testing;*

*(VI) Operation and maintenance manual;*

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

*(VIII) User charge ordinance; and*

*(IX) Plan of operation;*

*C. Abandoning costs. The reasonable and necessary cost of abandoning drinking water facilities no longer in use. Generally, these costs will be limited to the demolition and disposal of the structures, and abandoning unused wells in accordance with 10 CSR 23-3.110, and final grading and seeding of the site;*

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

*(I) Within the allowable scope of the project;*

*(II) Costs of equitable adjustments due to differing site conditions; and*

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

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

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

*G. Equipment, materials, and supplies.*

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

*(II) Cost of shop equipment installed at the public water system necessary to the operation of the works.*

*(III) The costs of necessary safety equipment, provided the equipment meets applicable federal, state, local, or*

industry safety requirements.

(IV) *The costs of mobile equipment necessary for the operation of the overall public water system, or for the maintenance of equipment. These items include: portable standby generators; large portable emergency pumps; trailers and other vehicles having as their purpose the transportation or application, or both, of liquid or dewatered water treatment plant residuals; and replacement parts identified and approved in advance;*

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

*I. Land or easements when the acquisition of real property or interests therein is integral to a project authorized by section 1452(a)(2) of the federal Safe Drinking Water Act and the purchase is from a willing seller. Land must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended, and certification by the recipient of compliance with the Uniform Relocation and Real Property Acquisition Policies Act is required;*

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

*K. The cost of preparing an environmental impact statement if required under 10 CSR 60-13.030;*

*L. Costs of issuance, capitalized interest, EIERA application fees, and contracted project administration costs; and*

*M. Debt service reserve deposits.*

*3. Noneligible costs include, but are not limited to:*

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

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

*C. Costs allowable in subparagraph (2)(R)2.I. of this rule that are in excess of just compensation based on the appraised value;*

*D. Ordinary operating expenses of the recipient including salaries and expenses of elected and appointed officials and preparation of routine financial reports and studies, and any permit fees necessary for the normal operation of the constructed facility;*

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

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

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

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

*I. Costs outside the scope of the approved project;*

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

*K. Force account work except that listed in subparagraph (2)(R)2.J. of this rule; and*

*L. Costs associated with acquisition of easements and land except that listed in subparagraph (2)(R)2.I.]*

**(N) Procurement of Design-build Services.** The procurement of design-build services shall be in accordance with section 67.5060, RSMo. Recipients that are exempt from section 67.5060, RSMo. may also utilize design-build services if local ordinances or policies allow design-build and the procurement of the design-build team considers both the qualifications of the team. Recipients seeking funds for a project utilizing design-build services must

notify the department with the recipient's application. Recipients that utilize design-build services shall coordinate procurement activities with the department to ensure compliance. The department may restrict the amount of funding available for projects using design-build services, if needed to comply with federal law and regulations.

*[(3) Project By-Pass, Project Removal and Modification of Funding.*

*This section applies to loan applicants on the fundable priority list. In order to assure best use of the loan funds in a reasonably expeditious manner, projects may be by-passed or removed from the fundable priority list or loan amounts may be modified. The department will confer and negotiate with affected applicants prior to making or recommending decisions on project by-pass, project removal or modification of loan amounts.*

*(A) Project By-Pass.*

*1. Eligibility for by-pass. The Safe Drinking Water Commission (the commission) may by-pass any project on the fundable priority list which is not, in the opinion of the commission, making satisfactory progress toward satisfying requirements for drinking water revolving fund (DWRf) assistance.*

*2. By-pass criteria. In determining if a project should be by-passed the commission shall use the criteria listed in this subsection.*

*A. Any project on the fundable priority list may be by-passed if the applicant fails to submit the documents required for DWRf assistance at least sixty (60) days prior to the beginning of the quarter for which the assistance is anticipated.*

*B. The commission may use individual schedules developed by the department to determine whether a DWRf project is making satisfactory progress during the fiscal year. A project may be by-passed for failure to meet the schedule.*

*3. By-pass procedures.*

*A. By-passed projects will be re-moved from the fundable priority list and, if the application is still valid, will be placed on a project list, in priority order, for funding consideration in the next federal fiscal year.*

*B. Funds recovered through project by-pass will be considered uncommitted and available for distribution to the next priority project in accordance with the requirements of section 640.107, RSMo.*

*(B) Project Removal. Projects may be removed from the fundable priority list at the request of the applicant, upon a finding by the department that the project is ineligible for DWRf assistance, or upon a finding that the applicant's credit is not adequate for participation in the DWRf loan program.*

*(C) Modification of Funding.*

*1. In order to maximize use of the aggregate funds available to the state for drinking water infrastructure improvements, the commission may remove projects or modify funding amounts upon a finding by the department that the applicant is eligible for funding from other government programs (such as USDA Rural Development, the Department of Economic Development's Community Development Block Grant program, or the Environmental Improvement and Energy Resources Authority). The department will coordinate with the other funding agencies to arrive at equitable and workable funding options for the applicant.*

*2. The department reserves the right to limit the maximum loan amount awarded. If utilized, the amount of the maximum loan limit will be addressed in the annual intended use plan and will be open for public comment.*

*(4) Leveraged Loans.*

*(A) This section describes the leveraged loan process and contains additional requirements for recipients of a leveraged loan under the Drinking Water Revolving Fund established in section 640.107, RSMo as a subfund of the Water and Wastewater Loan Fund. All other requirements also apply, including administrative fees in subsection (2)(B) of this rule, except for section (5) which applies specifically to DWRF direct loans.*

*(B) General Description.*

*1. This rule sets out the general format for the leveraged loan program. The commission, the department and the Environmental Improvement and Energy Resources Authority (EIERA) shall have the authority to make specific refinements, variations or additional requirements as may be necessary or desirable in connection with the efficient operation of the leveraged loan program.*

*2. The leveraged loan program is designed to maximize the funding available to make loans to recipients for the planning, design and construction of eligible projects. The EIERA will participate in the leveraged loan program by issuing its bonds or notes in accordance with its governing statute. The determination as to whether a recipient shall receive a leveraged loan under this rule shall be made in accordance with 10 CSR 60-13 and shall be subject to the approval of the EIERA.*

*3. Under the leveraged loan program, the recipient must obtain construction funds and any needed financing from EIERA. The recipient will receive a loan from the Drinking Water Revolving Fund which will be placed in a debt service reserve fund to secure the construction loan. The interest earnings on the debt service reserve fund will provide a subsidy by paying a portion of the interest costs of the EIERA bonds or notes used to provide the construction loan. The principal amount of the loan will be repaid to the DWRF.*

*(C) Target Interest Rate. The target interest rate (TIR) shall be established by the department in consultation with the EIERA based upon current economic factors, projected fund utilization, deposits in the subfund, and actual or anticipated federal capitalization grants. The department will use the Twenty-Five Bond Revenue Index as published in The Bond Buyer (or any successor publication) as the basis for determining the TIR. The department reserves the right to refinance, assign, pledge, or leverage any loans originated under this subsection.*

*1. The TIR for all assistance provided under the leveraged loan program shall not be less than thirty percent (30%) of the weekly Twenty-Five Bond Revenue Index as published in The Bond Buyer (or any successor publication) the week preceding funding, rounded up to the nearest one one hundredth (0.01) of one percent (1%). The Safe Drinking Water Commission (SDWC) shall not undertake project-by-project revisions.*

*2. The TIR for all assistance provided under section (5), DWRF Direct Loans, shall not be less than thirty percent (30%) of the weekly Twenty-Five Bond Revenue Index as published in The Bond Buyer (or any successor publication) the week preceding funding, rounded up to the nearest one one hundredth (0.01) of one percent (1%). The commission may reduce the interest rate to meet the needs of the applicant. In order to reduce the interest rate, the commission must determine that unique or unusual circumstances exist. In addition, the commission may reduce the interest rate for projects impacting enterprise zones as authorized under state law.*

*3. A disadvantaged community may receive a further reduction in the TIR as determined by the SDWC. A disadvantaged community is defined, for the purpose of reducing*

*the TIR, as an applicant that:*

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

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

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

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

*(D) Additional Application Requirements.*

*1. Financial disclosure. Loan applicants shall provide upon request any detailed financial information as may be required to determine the applicant's eligibility for the leveraged loan program.*

*2. Other financing. In addition to the application requirements in this rule, leveraged loan recipients must provide a description of the proposed method of obtaining any necessary financing for costs not being financed by the DWRF loan program, including information regarding the applicant's progress toward obtaining the funds and assistance.*

*(E) DWRF Leveraged Loan Structure.*

*1. As each leveraged loan is made, the loan from the DWRF will be used to fund a debt service reserve. The loan from the DWRF will be paid in one (1) or more installments by deposit to the debt service reserve fund on behalf of the recipient. Interest earnings on the debt service reserve fund will pay a portion of the interest costs of the EIERA bonds or notes used to provide the construction loan. DWRF loans deposited to the debt service reserve fund shall bear an interest rate of zero percent (0%).*

*2. Recipients will be charged a fee on the loan in accordance with section 644.106, RSMo and a subsidized interest rate.*

*3. Loans shall be sized to provide an estimated subsidy adequate to reduce the net interest cost of the EIERA loan to the target interest rate (TIR).*

*(F) Construction Loan Fund. Net proceeds from the sale of any project bonds or notes issued by the EIERA for eligible project costs shall be used to fund construction of the project. These proceeds shall be deposited with a construction loan trustee and disbursed as construction progresses pursuant to subsection (4)(I) of this rule.*

*(G) Alternative Leveraged Loan Structure. If financial market conditions dictate, an alternative leveraging structure may be implemented. Alternative leveraging structures will be developed by the department in consultation with the commission and the EIERA. The alternative structure, so developed, will be included in the annual intended use plan.*

*(H) Loan Agreements. In addition to the other requirements of this rule, the department and the EIERA may require the recipient to include assurances and certifications in the loan agreements and bond resolutions deemed necessary to protect the interest of the state and the EIERA and to comply with federal requirements.*

*(I) Disbursement from Loan Proceeds. The recipient shall request payments from the construction loan fund, which shall include the information listed in this subsection (4)(I) and other information deemed necessary and approved by the EIERA to ensure proper project management and expenditure of public funds.*

*1. Completed reimbursement request form.*

*2. Construction pay estimates signed by the construction contractor, the recipient, and the resident inspector, if*

applicable.

3. Invoices for other eligible services, equipment, and supplies for the project.

4. Any other documentation required under the provisions of the trust indenture.

(J) *Amortization Schedules.* The EIERA shall establish amortization schedules for long-term loans awarded under this rule. Repayment of principal shall begin not later than one (1) year after initiation of operation. The loans shall be fully repaid in no more than twenty (20) years after initiation of operation.

(K) *Loan Repayment.*

1. Repayment of principal and penalties to the DWRF loan program will be made by the release of money from the debt service reserve fund. If funds for these payments are not available in the debt service reserve, then the payment shall be made from other funds of the recipient.

2. Repayment of principal and interest on the EIERA bonds or notes will be paid from revenues of the user charge system or from another dedicated source of revenue as may be designated in the applicable bond resolutions or loan agreement.]

[(5)](3) DWSRF Direct Loans.

(A) General.

1. This section describes the process and requirements for direct loans awarded under this rule. All other requirements also apply, including administrative fees in subsection (2)/(B)/(A) of this rule[, except for subsection (2)(A) and section (4) of this rule which pertain to leveraged loans].

2. This rule sets out the general format for the direct loan program. The commission, [and] the department, and EIERA shall have the authority to make specific refinements, variations, or additional requirements as may be necessary or desirable in connection with the efficient operation of the direct loan program.

3. The department may make direct loans by purchasing the general obligation bonds, revenue bonds, short-term notes, or other acceptable obligation of any qualified [applicant] recipient for the planning, design, and/or construction of an eligible project. These loans shall not exceed the total eligible project costs described in subsection [(2)(R)] (1)(B) of this rule less any amounts finalized by any means other than through the direct loan program. [The department is not required to offer direct loans to Drinking Water Revolving Fund Loan Program applicants.]

[(B)] *Letter of Intent.* The department will issue a letter of intent to make a direct loan when the application documents are approved and the commission approves the project for receipt of loan funds. The letter of intent shall state the amount of funds reserved for the project, the requirements to qualify for receipt of loan funds, and the schedule for the applicant to meet all requirements. The department may terminate this letter of intent for failure to meet the schedule requirements or conditions of the letter of intent. The amount of assistance stated in the letter of intent may be adjusted to reflect actual costs and the availability of funds.]

[(C)](B) *Construction Loans.* The department may award construction loans to qualified applicants in order to provide interim financing during construction of their project. Construction loans may contain clauses and provisions determined by the department to be necessary to protect the interests of the state.] **Reimbursement Terms.**

1. With exception of substate revolving funds, the construction loan will remain in force throughout the construction period. However, it must be paid in full no later than the closing deadline provided in the construction loan agreement.

2. If the department is to provide long-term financing under this rule, then the construction loan must contain an

agreement by the department and the recipient that the department will purchase the recipient's general obligation bonds, revenue bonds, or other acceptable debt obligation after construction is completed. If a construction loan is awarded, the permanent financing amount will be limited in amount to the sum of the payments drawn from the construction loan for eligible project costs plus interest accrued on the construction loan plus the reasonable costs of issuance which can be financed under Missouri statutes.]

[3].1. [Unless specifically addressed in the loan documents, the recipient may request construction loan payments no more often than monthly.] The maximum [construction advance shall] reimbursement will be no more than the sum of all eligible costs incurred to date. Each payment request shall include the following information:

A. Completed reimbursement request form;

B. Construction pay estimates signed by the construction contractor, the recipient, and the [resident inspector] consulting engineer, if applicable;

C. Invoices for other eligible services, equipment, and supplies for the project; and

D. Any other information deemed necessary by the department to ensure proper project management and expenditure of public funds.

[4].2. If the department is satisfied that the payment request accurately reflects the eligible cost incurred to date on the project, the department will request that [a] state payment [check] be issued to the recipient.

[(D)](C) *Trustee or Paying Agent.* The department may require the recipient to contract with a trustee or paying agent to provide [all or part of] the [following] services below, along with other such services as detailed in the recipient's escrow agreement:

1. [Make joint assistance payments to the recipients and their contractors] **Maintain separate trust funds and accounts for recipients;**

2. [Ensure that payments are only released to those recipient's whose contractors have a project contract approved by the department] **Disburse funds to recipients;**

3. [Ensure that none of the recipient's contractors receive more in assistance payments than approved by the department] **Collect principal and interest quarterly payments from recipients;** and

4. [Maintain financial records of credits and debits for the construction project] **Provide monthly financial reports to recipients.**

[(E)] *Purchase of Obligations.* The department shall purchase revenue bonds, general obligation bonds, or other acceptable debt obligations from the recipient no later than the closing deadline contained in the construction loan agreement. In addition to the requirements of this rule, the department may require the recipient to include those assurances and clauses in the loan agreements and bond resolutions as deemed necessary to protect the interest of the state.]

[(F)](D) *Amortization Schedules.* The [department shall use the] following guidelines are to be used to establish amortization schedules [for obligations purchased] under this rule:

1. The bonds, notes, or other debt obligations shall be fully amortized [in no more than twenty (20) years after initiation of operation] as outlined in 40 CFR 35.3525;

2. [The] **Principal** payment frequency [on any debt obligations] shall be no less than annual [with the first payment no later than one (1) year after the initiation of operation] and **interest payments at least semi-annual;**

3. The amortization schedule may either be straight line or declining schedules for the term of the debt obligation. **The department may approve an alternative amortization method if deemed appropriate;** and

4. Repayment of principal shall begin not later than one (1) year after initiation of operation.

(E) **Target Interest Rate (TIR).** The TIR shall be established by the commission in consultation with the department and the EI ERA based upon current economic factors, projected fund utilization, deposits in the fund, and actual or anticipated federal capitalization grants and published in the annual intended use plan. The department reserves the right to refinance, assign, pledge, or leverage any loans originated under this rule.

[(G)](F) If at any time during the loan period the facility(ies) financed under this rule is sold, either outright or on contract for deed, the loan becomes due and payable upon transfer unless otherwise approved by the department.

(G) If at any time the public water system or any part thereof, funded with a DWSRF grant is sold, either outright or on contract for deed, to other than a political subdivision of the state, the department shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, loan repayment period, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership.

[(6)](4) [Additional Subsidization Recipients of financial assistance provided from the ARRA shall meet the applicable federal law, regulation, and guidance applicable to those funds. Additional subsidization may be in the form of forgiveness of principal, negative interest loans, or grants, or any combination of these. The TIR for ARRA-funded projects will initially be calculated as directed in subsection (4)(C) above.] Additional subsidization (such as principal forgiveness, negative interest loans, grants, or the like) may be provided as federal law requires or allows.

(5) **Disadvantaged Communities.** A disadvantaged community is defined as a recipient that—

(A) Serves a population of three thousand three hundred (3,300) or less;

(B) Has a median household income at or below seventy-five percent (75%) of the state average median household income as determined by the most recent decennial census or by an income survey overseen by a state or federal agency; and

(C) Has an average water user charge for five thousand (5,000) gallons that is at least two percent (2%) of the median household income of the recipient, determined by the decennial census or income survey listed in (5)(B).

*AUTHORITY:* sections 640.100[, RSMo Supp. 2008] and [section] 640.107, [HB 661, Ninety-fifth General Assembly 2009] RSMo 2016. Emergency rule filed July 15, 1998, effective July 25, 1998, expired Feb. 25, 1999. Original rule filed Aug. 17, 1998, effective April 30, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed June 13, 2018.

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be

received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for 10 a.m. on August 16, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Springs/Roaring River Conference Rooms, 1730 East Elm Street, Jefferson City, MO 65101.

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

**PROPOSED AMENDMENT**

**10 CSR 60-13.025 State Loan Program.** The department is amending subsections (1)(A), (C), and (D); deleting subsection (1)(E); amending section (2); incorporating 40 CFR 35.3520 by reference into section (2); deleting subsections (2)(A) and (B); amending subsections (3)(A), (B), and (D); deleting subsection (3)(C); renumbering subsection (3)(D); amending section (4) and subsection (4)(A); deleting subsections (4)(B) through (D); amending section (5), subsections (5)(A), and (5)(B); amending subsection (6)(A); incorporating 10 CSR 60-13.020(3)(E) by reference into subsection (6)(A); deleting subsection (6)(B); amending sections (7) and subsections (7)(A) through (C); deleting subsection (7)(E); amending subsections (8)(A), (D) through (L), (O), and (Q); incorporating 10 CSR 60-3.010 and 10 CSR 60-10.010 by reference into subsection (8)(A); incorporating Chapter 109, RSMo. by reference into subsection (8)(G); incorporating sections 8.285 through 8.291, RSMo. by reference into subsection (8)(I); incorporating sections 290.210-290.340 RSMo. and 8 CSR 30 Chapter 3 by reference into paragraph (8)(J)8.; incorporating section 67.5060, RSMo. by reference into subsection (8)(L); incorporating section 34.057, RSMo by reference into paragraph (8)(O)1.; deleting subsections (8)(B), (C), and (P), including Table I, Table 2, and the table notes; renumbering subsections (8)(D) through (O), and (Q); amending section (9), subsections (9)(D) and (9)(E); deleting subsections (9)(A) through (C), and (F); renumbering subsections (9)(D) and (E); and deleting section (10).

*PURPOSE:* The amendment removes language that is no longer applicable, clarifies current rule language, updates language to reflect new state and federal requirements, and removes duplicative and unnecessary regulatory requirements.

(1) **General Requirements.**

(A) The department may make direct loans to public water systems by purchasing the general obligation bonds, revenue bonds, short-term notes, or other acceptable obligation of any qualified [applicant] recipient for the planning, design or construction, or any combination of these, of an eligible project.

(C) If at any time during the term of the loan [period the facility(ies)] a recipient desires to sell, lease, mortgage or otherwise dispose of the infrastructure financed under this rule [is sold, either outright or on contract for deed], the loan becomes due and payable upon transfer unless otherwise approved by the department.

(D) This rule sets out the general format for loans from state funds. The [commission and the] department shall have the authority to make specific refinements, variations, or additional requirements as may be necessary or desirable in connection with the efficient operation of the loan process.

[(E) If at any time during the loan period the facility financed under this rule is sold, either outright or on contract for deed, the loan becomes due and payable upon transfer unless otherwise approved by the department.]

(2) [Eligibility] **Eligible Projects and Project-Related Costs.**

(A) [Eligible Systems. Public water supply districts and rural community water systems located in Missouri are eligible to apply. Eligibility to apply does not guarantee assistance

or eligibility for assistance.] This subsection incorporates the requirements in 40 CFR 35.3520 as set forth in 40 CFR part 35 subpart L, published July 1, 2017. 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 Capital Street NW, Washington D.C., 20401, toll free at (866)512-1800 or by visiting <https://bookstore.gpo.gov>. In addition to eligible project costs set forth in 40 CFR 35.3520, costs of issuance and debt service reserve deposits are eligible project costs.

*[(B) Eligible Projects.*

1. Assistance may be provided for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which will facilitate compliance with national primary drinking water regulations applicable to the system or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (SDWA).

2. Projects to address federal SDWA health standards identified in the intended use plan or in the loan priority point criteria that have been exceeded and projects to prevent future violations of the rules are eligible for funding. These include projects to maintain compliance with existing regulations for contaminants with acute health effects (such as the Surface Water Treatment Rule, the Total Coliform Rule, and nitrate standard) and regulations for contaminants with chronic health effects (such as Lead and Copper Rule, Phases I, II, and V Rules, and safety standards for total trihalomethanes, arsenic, barium, cadmium, chromium, fluoride, mercury, selenium, combined radium-226, -228, and gross alpha particle activity).

3. Projects to address imminent federal SDWA health standards (identified in the annual intended use plan) that have been exceeded or to prevent future violations of the anticipated rules are eligible for funding.

4. Projects to replace aging infrastructure are eligible if they are needed to maintain compliance or further the public health protection objectives of the federal SDWA. Examples of these include projects to:

A. Rehabilitate or develop sources to replace contaminated sources or sources of inadequate capacity;

B. Install or upgrade treatment facilities if, in the department's opinion, the project would improve the quality of drinking water to comply with primary or secondary standards;

C. Install or upgrade storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering the water system or improve water pressure to safe levels; and

D. Install or replace transmission and distribution pipes to prevent contamination caused by leaks or breaks in the pipe, or improve water pressure to safe levels.

5. Projects to consolidate water supplies (for example, when individual homes or other public water supplies have a water supply that is contaminated, or the system is unable to maintain compliance for financial or managerial reasons) are eligible for loan assistance.

6. The purchase of a portion of another system's capacity is eligible for a loan if it is the most cost-effective solution.]

(3) Application Procedures.

(A) [Applicants] Recipients must [have previously submitted] submit a preliminary project proposal [on forms provided by the department by the deadline established by the department and have received an invitation from the department to apply for financial assistance].

(B) [Applications must be postmarked or received by the

Public Drinking Water Program by the calendar date established in the annual application package as the application deadline. The department may extend this deadline if insufficient applications are received to use all of the funds expected to be available. Applicants] Applications are accepted year-round. Recipients shall provide:

1. A completed application form provided by the department;

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

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

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

[5.]4. Any additional information request by the department to determine the [applicant's] recipient's compliance history and technical, managerial, and financial capacity[; and].

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

(C) Unsuccessful applicants requesting funds during a given fiscal year who have completed the requirements in subsection (3)(B) of this rule shall be considered for funding the next fiscal year and need not reapply.]

[(D)](C) By submission of its application, the [applicant] recipient certifies and warrants that the [applicant] recipient has not, nor will through the loan amortization period, violate any of its bond covenants.

(4) Evaluation [and Priority Point Award].

(A) [Projects will be assigned priority points in accordance with the Drinking Water Revolving Fund (DWRF) loan priority point criteria approved by the commission under 10 CSR 60-13.020(1)(E)1. Projects will be listed in priority order according to the number of priority points assigned to the project. Projects accumulating the same total number of priority points will be ranked using the tie-breaking criteria in the DWRF loan priority point criteria.] Funds are available on a first come, first serve basis. If available funds are not sufficient to finance all applications, the funds will be distributed based on immediacy of need. Preference is given to those recipients receiving funding through other funding programs administered by the Department of Natural Resources.

[(B)] The department shall prepare and seek public comment on an annual intended use plan that includes the list of proposed projects. The commission may hold one or more public meetings or public hearings on the intended use plan for loans. Any applicant aggrieved by his/her standing may appeal to the commission during the public comment process.

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

(D) No direct loan assistance shall be provided to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance unless use of the assistance will ensure compliance.]

(5) [Loan] Fees.

(A) The department may charge annual loan fees not to exceed one-half percent [(1%)] (0.5%) of the outstanding loan balance of each loan[. These fees are intended to reimburse the department for the costs of loan origination, loan servicing and administration of the program], except as provided under subsection

(5)(B).

(B) *[In a/Additional [to this] administrative fees[,]. /a/Additional administrative fees may be assessed by the department at the time the administration fee is calculated for failure by a recipient to pay debt service on a loan or submit approved documents to the department (for example/s include but may not be limited to:), operation and maintenance manuals, [plan of operation,] enacted user charge and water-use ordinances, and executed contract documents, etc.) in accordance with the time frames provided under the agreement entered into by the recipient. The additional fee will be an additional one-tenth percent (0.1%) per month that the document remains delinquent. The additional fee for delinquent documents will be collected only during the year in which the document is not submitted.*

(6) Interest Rates. **The department will use the target interest rate (TIR) as outlined in 10 CSR 60-13.020(3)(E).**

*[(A) The interest rate charged by the department on direct loans will not be less than zero percent (0%) nor more than market rate as determined by the Twenty-Five Revenue Bond Index published by the Bond Buyers Index of Twenty Bonds rounded to the nearest one-tenth (0.1) of one percent (1%). The department will use the Twenty-Five Revenue Bond Index most recently published prior to the date on which the project assistance is provided for all loans except those secured by general obligation bonds. For these transactions, the rate published immediately preceding filing with the State Auditor's Office will be used.*

*(B) Interest on construction loans will begin accruing on the last day of the month in which a construction advance is made and will be compounded at the end of each month after that until such time as the construction loan along with all interest accrued is paid in full.]*

(7) Amortization Schedules. *[The department shall use t/*The following guidelines **are to be used** to establish amortization schedules *[for obligations purchased] under this rule:*

(A) The bonds, notes, or other *[debt]* obligations shall be fully amortized *[in no more] for a period not longer* than twenty (20) years after initiation of operation;

(B) The **principal** payment frequency *[on any debt obligations]* shall be no less than **annual and interest payments at least semi-annual [with the first payment no later than one (1) year after the initiation of operation];**

(C) The amortization schedule may either be straightline or declining schedules for the term of the debt obligation. **The department may approve an alternative amortization method if deemed appropriate;** and

*[(E) If the department is the bond owner, the participant's bonds may be called and reissued.]*

(8) Requirements for Loan Recipients.

(A) **Engineering Report and Project Design. Engineering report and [D]design of eligible projects for community water systems shall conform with [accepted engineering practices. A preliminary design submittal, including the design criteria and facilities layout sheet, may be required at approximately the twenty percent (20%) design stage] 10 CSR 60-3.010 and 10 CSR 60-10.010.**

*[(B) Public Participation. The public must be allowed an opportunity to exchange ideas with the applicant during project development. Public participation must be preceded by timely distribution of information and must occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action.*

*1. A public meeting shall be conducted to discuss the alternative engineering solutions.*

*2. Prior to approval of the draft user charge ordinance,*

*a public meeting shall be conducted to address the proposed user charge rates. Public notice of the meeting should be published at least thirty (30) days prior to the meeting date in one (1) or more local newspaper, as needed to cover the project service area. The recipient shall prepare a transcript, recording or other complete record of the proceeding along with proof of publication and submit it to the department and make it available at no more than cost to anyone who requests it. A copy of the record should be available for public review.*

*(C) Binding Commitment. In order for the department to offer to enter into a binding commitment, all documents and information required here must be submitted to the department at least sixty (60) days prior to the applicant's binding commitment deadline established by the department.*

*1. Engineering report.*

*A. Engineering reports must be in accordance with accepted engineering practices and applicable rules. References such as the current Design Guide for Community Water Systems and Ten State Standards should be considered as design standards.*

*B. The most feasible, economic and environmentally sound alternatives for providing safe drinking water must be studied and evaluated.*

*C. An estimate of the average user charge including documentation of the basis of the estimate must be included.*

*D. An assessment of the environmental conditions and impact of the proposed project on the environment is required.*

*2. Detailed project budget.*

*3. Project schedule.*

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

*B. Construction completion.*

*C. Initiation of operation.*

*D. Project completion.]*

*[(D)](B) Loan Closing. [After the department has entered into a binding commitment with the applicant and the requirements of subsections (8)(B) and (8)(C) have been met, the following additional requirements must be met before loan closing can occur.] All documents and information must be submitted to the department in sufficient time to allow adequate time for review and must be approved sixty (60) days prior to the loan closing date established by the department. The department may extend deadlines if justified.*

*1. Final document submittal. The following documents must be submitted to and approved by the department:*

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

*B. [Any and all changes to the proposed project schedule;] Proposed project schedule. The following represents the minimum requirements for the project schedule:*

*(I) Construction start defined as date of issuance of notice to proceed;*

*(II) Construction Completion;*

*(III) Initiation of operation; and*

*(IV) Project completion;*

*C. [Draft] Executed engineering contract as described in this rule and the appropriate procurement documentation as described in paragraph (8)(G)1.;*

*D. Engineering report and [P]plans and specifications certified by a registered professional engineer licensed in Missouri;*

*E. Certification of easements and real property acquisition.*

Recipients of assistance shall have obtained title or option to the property or easements for the project prior to loan closing;

F. Draft user charge and water use ordinances as described in this rule; and

G. Other information or documentation deemed necessary by the *[applicant]* recipient or the department to ensure the proper expenditure of loan funds.

2. Projects serving multiple water systems. Prior to closing, if the project serves two (2) or more public water systems, the *[applicant]* recipient shall submit executed agreements or contracts between the public water systems for the financing, construction and operation of the proposed facilities. *[At a minimum, the agreement or contract shall include:]*

*[A. The operation and maintenance responsibilities of each party upon which the costs are allocated;*

*B. The formula by which the costs are allocated; and*

*C. The manner in which the costs are allocated.]*

3. User charge (water rate) ordinance.

A. Loan recipients are required to maintain, for the useful life of the project, user charge ordinances approved by the department. User charge ordinances, at a minimum, shall be adopted prior to financing and implemented by the initiation of operation of the financed project. *[A copy of the enacted ordinances shall be submitted prior to initiation of operation.]*

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

4. Additional requirements for privately-owned public water systems. Privately-owned public water systems must provide documentation from the Missouri Department of Economic Development showing an allocation under Missouri's private activity bond cap and must obtain any necessary approvals from the Public Service Commission.

*[(E)](C) Operation and Maintenance.*

*[1. Plan of operation.*

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

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

*[2.]1. Operation and maintenance manual. The recipient must make provision satisfactory to the department for assuring operational efficiency be achieved as quickly as possible and effective operation and maintenance of the constructed project throughout its design life. If required by the department, recipients [of assistance for construction of mechanical facilities must make provision satisfactory to the department to develop for approval] will develop an operation and maintenance manual in accordance with departmental guidelines. A draft operation and maintenance manual*

*must be [submitted by fifty percent (50%) construction completion. At ninety percent (90%) construction, the final operation and maintenance manual must be approved] reviewed by final approval.*

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

*[4.]3. Personnel. The recipient must make provision satisfactory to the department for assuring that operator(s) and maintenance personnel are hired in accordance with an approved schedule.*

*[5.]4. System certification. If required by the department, [O]ne (1) year after initiation of operation of the constructed public water system, the recipient shall certify to the department whether or not the public water system meets the project performance standards. Any statement of noncompliance must be accompanied by a corrective action report containing an analysis of the cause of the project's inability to meet performance standards, actions necessary to bring it into compliance, and reasonably scheduled date for positive certification of the project. Timely corrective action shall be executed by the recipient.*

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

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

*[A.]2. The recipient is responsible for maintaining a financial management system which will adequately provide for an accurate, current, and complete disclosure of the financial results of each loan project. Accounting for project funds will be in accordance with generally accepted government accounting principles and practices, consistently applied, regardless of the source of funds.*

*[B.]3. An acceptable accounting system includes books and records showing all financial transactions related to the construction project. The system must document all receipt and disbursement transactions. It also must and group them by type of account (for example, asset, revenue, expense, etc.) and by individual expense account (for example, personnel salaries and wages, subcontract costs, etc.). The recipient shall maintain books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly the amount, receipt, and disposition by the recipient for all assistance received for the project and the total costs of the project of whatever nature incurred for the performance of the project for which the assistance was awarded. [Minimum standards for an adequate accounting system include—]*

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

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

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

*[(IV) Responsibility for all project funds must be placed with a project manager;*

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

*[(VI) The accrual basis of accounting is strongly recommended for construction projects as it provides an effective measure of costs and expenditures;*

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

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

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

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

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

2. Audits. The recipient must comply with the provisions of OMB Circular A-128 governing the audit of state and local government.]

[(G)](E) Record Retention Requirements.

[1. Construction-related activities. At a minimum, t]The recipient must retain all [financial, technical and administrative] records [related to the planning, design and construction of the project for a minimum period of seven (7) years following receipt of the final construction payment or the recipient's acceptance of construction, whichever is later. Records shall be available to state officials for audit purposes during normal business hours during that period.] according to the retention schedules established by Chapter 109, RSMo. A longer retention period may be required under the loan documentation.

[2. Post-construction financing activities. At a minimum, the recipient must retain all financial and administrative records related to post-construction project financing for a minimum period of seven (7) years following full repayment of assistance.]

[(H)](F) Minimum Requirements for Architectural or Engineering Contracts.

1. The [sub]agreement must[:]-

A. Be necessary for and directly related to the accomplishment of the eligible project;

B. Be a lump sum or cost plus fixed fee contract in the form of a bilaterally executed written agreement;

C. Be for monetary consideration;

D. Not be in the nature of a grant or gift;

E. State a time frame for performance;

F. State a cost which cannot be exceeded except by amendment; and

G. State provisions for payment.

2. The nature, scope and extent of work to be performed during construction should include, but not be limited to, the following:

[A. Preparing a plan of operation if required by the department that meets the requirements of this rule;]

[B.]A. Preparing an operation and maintenance manual if required by the department that meets the requirements of this rule;

[C.]B. Assisting the recipient in letting bids;

[D.]C. Assisting the recipient in reviewing and analyzing construction bids and making recommendations for award;

[E.]D. Inspecting during construction to ensure conformance with the construction contract documents unless waived by the department; and

[F.]E. If required by the department, [A]assisting with facility operation for purposes of certifying that the facility is operating properly one (1) year after start-up.

3. The final approved executed engineering contract must be submitted prior to the first reimbursement request.

[(I)](G) Procurement of Engineering Services.

1. [Contracts for architectural, engineering and land sur-

veying services shall be negotiated on the basis of demonstrated competence, qualifications for the type of services required and at fair and reasonable prices. The procedures and procurement requirements in sections 8.285-8.291, RSMo apply unless the applicant elects to use the design/build option described in this rule.] Procurement of engineering services shall be in accordance with sections 8.285 through 8.291, RSMo or subsection (8)(J) of this rule.

[2. Use of the same architect or engineer during construction. If the recipient is satisfied with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for the project and wishes to retain that firm or individual during construction of the project, the recipient may do so without further public notice and evaluation of qualifications, provided the recipient selected the firm using, at a minimum, the procedures in sections 8.285-8.291, RSMo.]

[(J)](H) Specifications. The construction specifications must contain the following:

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

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

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

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

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

6. Domestic products procurement law[.] requirements [I]n accordance with sections 34.350-34.359, RSMo[, the bid documents shall require all manufactured goods or commodities used or supplied in the performance of any contract or sub-contract awarded on a loan project to be manufactured, assembled or produced in the United States, unless obtaining American-made products would increase the cost of the contract by more than ten percent (10%) and in accordance with section 71.140, RSMo, preference shall be given to Missouri products];

7. Bonding[. O]n construction contracts exceeding one hundred fifty thousand dollars [(\$ 100,000)] (\$150,000), the bid documents shall require each bidder to furnish a bid guarantee equivalent

to five percent (5%) of the bid price. In addition, the bid documents must require the successful bidder to furnish performance and payment bonds, each of which shall be in an amount not less than one hundred percent (100%) of the contract price;

8. State wage determination/. *The bid documents shall contain the current prevailing wage determination issued by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards, if otherwise required by law* in accordance with sections 290.210-290.340, RSMo and 8 CSR 30 Chapter 3;

9. Right of entry to the project site shall be provided for representatives of the department *[and]*, the Environmental Improvement and Energy Resources Authority, **and the Missouri State Auditor** so they may have access to the work wherever it is in preparation or progress; and

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

*[(K)](I)* Construction Equipment and Supplies Procurement. This section describes the minimum procurement requirements which the recipient must use unless the *[applicant]* recipient elects to use the design/build option described in subsection (8)*[(L)](J)* of this rule.

1. Small purchases. A small purchase is the procurement of materials, supplies, and services when the aggregate amount involved in any one (1) transaction does not exceed *[twenty-five] one hundred fifty* thousand dollars *[((\$25,000)] (\$150,000)*. The small purchase limitation of *[twenty-five] one hundred fifty* thousand dollars *[((\$25,000)] (\$150,000)* applies to the aggregate total of an order, including all estimated handling and freight charges, overhead and profit to be paid under the order. In arriving at the aggregate amount involved in any one (1) transaction, all items which should properly be grouped together must be included. Department *[approval]* concurrence and a minimum of three (3) quotes must be obtained prior to purchase.

2. Bidding requirements. This paragraph applies to procurement of construction equipment, supplies, and construction services in excess of *[twenty-five] one hundred fifty* thousand dollars *[((\$25,000)] (\$150,000)* awarded by the recipient. No contract shall be awarded until the department has approved the formal advertising and bidding.

A. Formal advertising.

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

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

B. Bid document requirements and procedure.

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

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

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

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

(d) Responsibility requirements and criteria which will

be employed in evaluating bidders;

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

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

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

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

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

(j) Departmental concurrence with contract award must be obtained prior to actual contract award. Recipients shall notify the department in writing of each proposed construction contract which has an aggregate value over *[twenty-five] one hundred fifty* thousand dollars *[((\$25,000)] (\$150,000)*. The recipient shall notify the department within ten (10) calendar days after the bid opening for each construction subagreement. The notice shall include:

I. Proof of advertising;

II. Tabulation of bids;

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

IV. Recommendation of award;

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

VI. Copy of the bid bond;

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

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

IX. Site certification, if not previously submitted.

*[(L)](J)* *[Design/Build Projects. Applicants may elect to use the design/build method of procuring design and construction services in lieu of the procurement methods described in subsection (8)(K) of this rule.]* **Procurement of Design-build Services.** The procurement of design-build services shall be in accordance with section 67.5060, RSMo. Recipients that are exempt from section 67.5060, RSMo may also utilize design-build services if local ordinances or policies allow design-build and the procurement of the design-build team considers both the qualifications of the

team. Recipients seeking funds for a project utilizing design-build services must notify the department with the recipient's application. Recipients that utilize design-build services shall coordinate procurement activities with the department to ensure compliance.

*1. Additional application requirements. The applicant must provide the department with:*

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

*B. A bid package that is sufficiently detailed to ensure that the bids received for the design/build work are complete, accurate, comparable and will result in the most cost-effective operable facility which meets the design requirements of the department. The "Design Guide for Community Water Systems" or the "Ten State Standards" shall be considered for design standards. The prebid package shall contain, at a minimum, the clauses in paragraphs (8)(J)6.-8. of this rule, if applicable.*

*2. Bidding procedures. Bidding shall be conducted in accordance with the procedures described in paragraph (8)(K)2. of this rule.*

*3. Contract type. Design/build contracts shall be lump sum contracts for the cost associated with design and construction. No increases to contract price for design and construction services shall be permitted. Recipients are encouraged to incorporate facility operations into the contract. When included in the contract, the cost of operations for an established time period may be included in the criteria for evaluating bids and selecting the lowest, responsible, responsive bidder.*

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

*5. Department approvals and permits. Prior to construction start, the recipient must obtain approval of the construction plans and specifications and obtain a construction permit from the department.]*

*[(M)](K) Conflict of Interest.*

1. No employee, officer, or agent of the recipient shall participate in the selection, award or administration of a subagreement supported by state or federal funds if a conflict of interest, real or apparent, would be involved. This conflict would arise when—

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

B. An organization which may receive or has been awarded a subagreement employs, or is about to employ, any employee, officer or agent of the recipient, any member of their immediate families or their partners.

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

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

*1. Unit prices.*

A. Unit prices previously approved are acceptable for pricing changes of original bid items. However, when changes in quantities

exceed fifteen percent (15%) of the original bid quantity and the total dollar change of that bid item is greater than twenty-five thousand dollars (\$25,000), the recipient shall review the unit price to determine if a new unit price should be negotiated.

B. Unit prices of new items shall be negotiated;

2. A lump sum to be negotiated; and

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

*[(O)](M) Progress Payments to Contractors.*

1. Recipients should make prompt progress payments to prime contractors and prime contractors should make prompt progress payments to subcontractors and suppliers for eligible construction, supplies, and equipment costs in accordance with section 34.057, RSMo.

*[A. For purposes of this section, progress payments are defined as follows:*

*(I) Payments for work in place; and*

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

2. Appropriate provisions regarding progress payments must be included in each contract and subcontract.]

*[3.]2. Retention from progress payments. [The recipient may retain a portion of the amount otherwise due the contractor.] The amount the recipient retains [shall] should be in accordance with section 34.057, RSMo.*

*[(P) Classification of Costs.*

1. Eligible project costs. Loans shall not exceed the total eligible project costs described in this subsection (8)(P) less any amounts financed by any means other than through the direct loan program. All project costs will be eligible if they are reasonable and cost effective and are necessary for the approved project, including required mitigation. Eligible costs include, at a minimum:

A. Engineering services and other services incurred in planning and in preparing the design drawings and specifications for the project. These services and their related expenses can be reimbursed based on actual invoices to be submitted after loan closing or by means of an allowance. For invoice reimbursement, the department must have a copy of the executed engineering contract for planning and design of the project. Allowance reimbursement for these services will be based on a percentage of the total eligible construction contract amounts at bid opening as determined from Table 1 or 2 (as applicable) plus land, equipment, materials and supplies identified or referenced in the approved engineering report. For phased or segmented projects, incremental allowance calculations and corresponding reimbursements may be made;

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

*(I) Office engineering;*

(II) Construction surveillance;  
 (III) Stakeout surveying;  
 (IV) As-built drawings;  
 (V) Special soils/materials testing;  
 (VI) Operation and maintenance manual;  
 (VII) Follow-up services and the cost of start-up training for operators of mechanical facilities constructed by the project to the extent that these costs are incurred prior to this department's final inspection. Costs shall be limited to on-site operator training tailored to the facilities constructed or on- or off-site training may be provided by the equipment manufacturer if this training is properly procured;

(VIII) User charge ordinance; and

(IX) Plan of operation;

C. Abandoning costs. The reasonable and necessary cost of abandoning drinking water facilities no longer in use. Generally, these costs will be limited to the demolition and disposal of the structures, and abandoning unused wells owned by the recipient in accordance with 10 CSR 23-3.110, and final grading and seeding of the site;

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

(I) Within the allowable scope of the project;

(II) Costs of equitable adjustments due to differing site conditions;

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

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

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

G. Equipment, materials and supplies.

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

(II) Cost of shop equipment installed at the public water system necessary to the operation of the works.

(III) The costs of necessary safety equipment, provided the equipment meets applicable federal, state, local or industry safety requirements.

(IV) The costs of mobile equipment necessary for the operation of the overall public water system, or for the maintenance of equipment. These items include: portable standby generators; large portable emergency pumps; trailers and other vehicles having as their purpose the transportation or application, or both, of liquid or dewatered water treatment plant residuals; and replacement parts identified and approved in advance;

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

I. Land, easements or rights of way when the acquisition of real property or interests therein is integral to the project and the purchase is from a willing seller. Eligibility shall be limited to fair market value;

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

K. The cost of preparing an environmental impact statement if required under 10 CSR 60-13.030;

L. Costs of issuance, capitalized interest, EIERA application fees, and contracted project administration costs; and

M. Debt service reserve deposits.

3. Noneligible costs include, but are not limited to:

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

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

C. Costs allowable in subparagraph (8)(P)2.I. of this rule that are in excess of just compensation based on the appraised value;

D. Ordinary operating expenses of the recipient including salaries and expenses of elected and appointed officials and preparation of routine financial reports and studies, and any permit fees necessary for the normal operation of the constructed facility;

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

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

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

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

I. Costs outside the scope of the approved project;

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

K. Force account work except that listed in subparagraph (8)(P)2.J. of this rule; and

L. Costs associated with acquisition of easements and land except that listed in subparagraph (8)(P)2.I.

Table 1—Maximum Eligible Amount for Facilities Planning and Design

Construction Cost	Allowance as a Percentage of Construction Cost*
\$ 100,000 or less	14.49
120,000	14.11
150,000	13.66
175,000	13.36
200,000	13.10
250,000	12.68
300,000	12.35
350,000	12.08
400,000	11.84
500,000	11.46
600,000	11.16
700,000	10.92
800,000	10.71
900,000	10.52
1,000,000	10.36
1,200,000	10.09
1,500,000	9.77
1,750,000	9.55
2,000,000	9.37
2,500,000	9.07
3,000,000	8.83
3,500,000	8.63
4,000,000	8.47
5,000,000	8.20
6,000,000	7.98
7,000,000	7.81
8,000,000	7.66
9,000,000	7.52
10,000,000	7.41
12,000,000	7.22
15,000,000	6.99
17,500,000	6.83
20,000,000	6.70
25,000,000	6.48
30,000,000	6.31
35,000,000	6.17
40,000,000	6.06
50,000,000	5.86
60,000,000	5.71
70,000,000	5.58
80,000,000	5.47
90,000,000	5.38
100,000,000	5.30
120,000,000	5.16
150,000,000	4.99
175,000,000	4.88
200,000,000	4.79

Table 2—Maximum Eligible Amount—Design Only

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

\*Interpolate between values.

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

*[(Q)](N)* Trustee or Paying Agent. The department may require the recipient to contract with a trustee or paying agent to provide *[all or part of]* the *[following]* services listed below, along with other such services as detailed in the participants escrow agreement:

1. *[Make joint assistance payments to the recipient and their contractors]* **Maintain separate trust funds and accounts for recipients;**

2. *[Ensure that payments are only released to those recipients whose contractors have a project contract approved by the department]* **Disburse funds to recipients;**

3. *[Ensure that none of the recipient's contractors receive more in assistance payments than approved by the department]* **Collect principal and interest quarterly payments from recipients;** and

4. *[Maintain financial records of credits and debits for the construction project]* **Provide monthly financial reports to recipients.**

(9) **[Construction Loans] Reimbursement Terms.**

*[(A)]* The department may award construction loans to qualified applicants in order to provide interim financing during construction of their project. Construction loans will contain clauses and provisions determined by the department to be necessary to protect the interests of the state.

*[(B)]* With exception of substate revolving funds and projects receiving financing through the leveraged loan program, the construction loan will remain in force throughout the construction period. However, it must be paid in full in accordance with the closing deadline provided in the construction loan agreement.

*[(C)]* If the department is to provide long-term financing under this rule, then the construction loan must contain an agreement by the department and the recipient that the department will purchase the recipient's general obligation, revenue bonds or other acceptable debt obligation after construction is completed. If a construction loan is awarded, the permanent financing amount will be limited in amount to the sum of the payments drawn from the construction loan for eligible project costs plus interest accrued on the construction loan plus the reasonable costs of issuance which can be financed under Missouri statutes.]

*[(D)](A)* *[Unless specifically addressed in the loan documents, the recipient may request construction loan payments no more often than monthly.]* The maximum *[construction advance shall]* reimbursement will be **no more than** the sum of all eligible costs incurred to date. Each payment shall include the information listed here and any other information deemed necessary by the department to ensure proper project management and expenditure of public funds:

1. Completed reimbursement request form;
2. Construction pay estimates signed by the construction contractor, the recipient, and the *[resident inspector]* **consulting engineer**, if applicable; and
3. Invoices for other eligible services, equipment, and supplies for the project.

*[(E)](B)* If the department is satisfied that the payment request accurately reflects the eligible cost incurred to date on the project, the department will request that *[a]* state payment *[check]* be issued to the recipient.

*[(F)]* The department shall purchase revenue bonds, general obligation bonds or other acceptable debt obligations from the loan recipient by the closing deadline contained in the construction loan agreement.]

*[(10)]* **Project Bypass, Project Removal and Modification of Funding.** This section applies to loan applicants on a fundable priority list. In order to assure best use of the loan funds in a reasonably expeditious manner, projects may be

*bypassed or removed from a fundable priority list or loan amounts may be modified. The department will confer and negotiate with affected applicants prior to making or recommending decisions on project bypass, project removal or modification of loan amounts.*

*(A) Project Bypass.*

1. *Eligibility for bypass.* A project may be bypassed if the project is not, in the opinion of the department, making satisfactory progress toward satisfying requirements for assistance.

2. *Bypass criteria.*

A. Any project on the fundable priority list may be bypassed if the applicant fails to submit the documents required for assistance at least sixty (60) days prior to the beginning of the quarter for which the assistance is anticipated.

B. Individual schedules developed by the department may be used to determine whether a project is making satisfactory progress during the fiscal year. A project may be bypassed for failure to meet the schedule.

3. *Bypass procedures.*

A. Bypassed projects will be removed from the fundable priority list and, if the application is still valid, will be placed on a project list, in priority order, for funding consideration in the next fiscal year.

B. Funds recovered through project bypass will be considered uncommitted and available for distribution to the next priority project.

*[(B)] Project Removal.* Projects may be removed from the fundable priority list at the request of the applicant, upon a finding by the department that the project is ineligible for direct loan assistance, upon a finding that the applicant's credit is not adequate for participation in the direct loan program, or if, after the second intended use plan cycle, the applicant has not closed on the loan. If an applicant is removed, it may reapply only after it has secured its debt issuance authorization.

*[(C)] Modification of Funding.* In order to maximize use of the aggregate funds available to the state for drinking water infrastructure improvements, the commission may remove projects or modify funding amounts upon a finding by the department that the applicant is eligible for funding from other government programs (such as USDA Rural Development, the Department of Economic Development's Community Development Block Grant Program, or the Environmental Improvement and Energy Resources Authority) or when deemed necessary by the department based on bids received. The department will coordinate with the other funding agencies to arrive at equitable and workable funding options for the applicant. The department reserves the right to limit the maximum loan amount awarded.]

**AUTHORITY:** sections 640.100 and 640.140, RSMo [2000] 2016. Original rule filed Jan. 19, 2001, effective Sept. 30, 2001. Amended: Filed June 13, 2018.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection

Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to [fac@dnr.mo.gov](mailto:fac@dnr.mo.gov). To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for 10 a.m. on August 16, 2018 at the Department of Natural Resources, Elm Street Conference Center, Bennett Springs/Roaring River Conference Rooms, 1730 East Elm Street, Jefferson City, MO 65101.

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

**PROPOSED AMENDMENT**

**10 CSR 60-13.030 Environmental Review.** The department is amending the purpose of the rule and sections (1)–(6), deleting subsection (6)(E), and adding a new section (8).

*PURPOSE: The amendment revises the purpose statement, removes language that is no longer applicable, clarifies current rule language and removes duplicative, and unnecessary regulatory requirements.*

*PURPOSE: This rule establishes procedures and requirements for environmental reviews [required] for assistance from the Drinking Water State Revolving Fund [loan] program.*

(1) General. The purpose of the environmental review is to ensure that the project will comply with applicable local, state, and federal laws and rules relating to the protection and enhancement of the environment. Based upon the staff's review, the director will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of the provision of financial assistance for [building] construction. No financial assistance will be provided until a final environmental determination has been made. Nothing in this rule shall prohibit any public, private, or governmental party from seeking administrative or legal relief from the determinations of the director.

(2) Basic Environmental Determinations. **There are [T]three (3) basic environmental determinations that will apply to projects proposed to be implemented with assistance from the fund.**

(A) Categorical exclusion (CE). The [categorical exclusion [CE]] determination applies to categories of projects that have been shown over time not to entail significant impacts on the quality of the human environment.

1. Projects which meet [either of] the following criteria may be categorically excluded from formal environmental review requirements:

A. The project is directed solely toward minor rehabilitation of existing facilities, functional replacement of equipment, or toward the construction of related facilities adjoining the existing facilities that do not affect the degree of water treatment or the capacity of the public water system. Examples include rehabilitation of existing equipment and structures, and the construction of small structures on existing sites; [and] or

**B. New underground water lines or structures if located entirely in existing rights-of-way that have been previously disturbed and supported by appropriate documentation to verify the rights-of-way location(s) and type(s) of previous disturbance.**

2. CEs will not be granted for projects that entail—

A. The construction of new water mains located outside existing rights-of-ways;

B. A new water supply source or relocation of an existing water supply source;

C. An increase of more than thirty percent (30%) in the [required] capacity of the water system;

D. Provision of a capacity for a population thirty percent (30%) or greater than the existing population;

E. Known or expected impacts to cultural resources, threatened or endangered species, or other environmentally sensitive areas; and

F. The construction of facilities that are known or expected to be not cost-effective or are likely to cause significant public controversy.

(B) Finding of no significant impact/environmental assessment (FNSI/EA). The FNSI/EA will be based upon an environmental review by the staff supported by an environmental information document (EID) prepared by the [applicant] recipient in conformance with guidance developed by the department. If a FNSI/EA is not appropriate, a public notice noting the preparation of an environmental impact statement (EIS) will be required. The director's issuance of a FNSI/EA will be based upon documentation that the potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures.

(C) Record of Decision (ROD). The ROD may only be based upon an EIS in conformance with the format and guidelines described in [this] subsection (5)(C). An EIS will be required when the director determines any of the following:

1. The project will significantly [will] affect the pattern and type of land use or growth and distribution of the population;

2. The effects resulting from any structure or facility constructed or operated under the proposed action may conflict with local or state land use plans or policies;

3. The project may have significant adverse impacts upon—

A. Wetlands;

B. Floodplains;

C. Threatened and endangered species or their habitats;

D. Cultural resources including parklands, preserves, other public lands or recognized scenic, recreational, prime farmlands, archeological or historic value; and

E. Prime farmland;

4. The project will displace populations or significantly alter the characteristics of existing residential areas; and

5. The project directly or indirectly (for example, through induced development) may have significant adverse effect upon local ambient air quality, local noise levels, surface and groundwater quantity or quality, fish, shellfish, wildlife, or their natural habitats.

(3) When five (5) or more years have elapsed between the last environmental determination and the submittal of an application to the fund, the director will reevaluate the project, environmental conditions and public views and, prior to approval of the application, proceed in accordance with [sub]section (6)[(A)] of this rule.

(4) [Pre-environmental review c]Construction Prior to Environmental Review.

(A) A[n applicant] recipient may request advance authority to construct part of the proposed drinking water project prior to completion of the necessary environmental review when that part of the project will—

1. Remedy a severe public health problem immediately;

2. Not preclude any reasonable alternatives identified for the complete system;

3. Not cause significant direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire project; and

4. Not be highly controversial.

(B) Based upon the review of the information required by section (2) of this rule, the director will issue a FNSI/EA so conditioned as to prohibit construction of the remainder of the project until a complete environmental review has been performed and a subsequent environmental determination has been issued.

(5) Information Required for Environmental Review. [A minimum

of three (3) copies of all information required in this section shall be submitted to the department.]

(A) *[Applicants]* **Recipients** seeking a CE *[shall]* **will** provide the director with sufficient documentation to demonstrate compliance with the criteria of subsection (2)(A). At a minimum, this *[shall]* **will** consist of a—

1. Brief, complete description of the proposed project and its costs;
2. Statement indicating that the project is cost-effective and that the *[applicant]* **recipient** is financially capable of constructing, operating, and maintaining the facilities; and
3. Plan map(s) of the proposed project showing—
  - A. The location of all construction areas;
  - B. The planning area boundaries; and
  - C. Any known environmentally sensitive areas.

(B) An EID shall be submitted by those *[applicants]* **recipients** whose proposed projects do not meet the criteria for a CE and for which the director has made a preliminary determination that an EIS will not be required. The director will provide guidance on both the format and contents of the EID to potential *[applicants]* **recipients** prior to initiation of facilities planning.

1. At a minimum, the contents of an EID *[shall]* **will** include:
  - A. The purpose and need for the project;
  - B. **Information describing** *[T]the current* environmental setting of the project and the future *[of the]* environmental setting without the project;
  - C. The alternatives to the project as proposed;
  - D. A description of the proposed project;
  - E. **The proposed impact of the project and alternatives on the user rates;**
    - [E./F.]* The potential environmental impacts of the project as proposed including those which cannot be avoided;
    - [F./G.]* The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity;
    - [G./H.]* Any irreversible and irretrievable commitments of resources to the proposed project;
    - I. Proposed mitigation measures to minimize the environmental impacts of the project;**
    - [H./J.]* A description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and
    - [I./K.]* Documentation of coordination with appropriate governmental agencies.

2. The *[applicant shall]* **recipient will** hold a public **meeting or** hearing on the proposed project and the EID, and provide the director with a *[verbatim transcript of the]* **complete record of the meeting or** hearing. *[The director will provide guidance to the applicant regarding the contents of the hearing notice and of the hearing.]* The **meeting or** hearing will be advertised at least thirty (30) days in advance in a local newspaper of general circulation. *[Concurrent with the advertisement, a notice of the public hearing and availability of the documents will be sent to all local, state and federal agencies and public and private parties that may have an interest in the proposed project.]* Included with the *[transcript]* **meeting record** will be a list of all attendees with addresses, any written testimony, and the *[applicant's]* **recipient's** responses to the issues raised.

*[3. The department will provide copies of the FNSI/EA to all federal, state and local agencies and others with an interest in the project.]*

(C) The format of an EIS *[shall]* **will** encourage sound analyses and clear presentation of alternatives, including the no-action alternative and the selected alternative and their environmental, economic, and social impacts. The following format shall be followed by the *[applicant]* **recipient** unless the director determines there are compelling reasons to do otherwise:

1. A cover sheet identifying the *[applicant]* **recipient**, the pro-

ject(s), the program through which financial assistance is requested, and the date of publication;

2. An executive summary consisting of a five to fifteen (5-15) page summary of the critical issues of the EIS in sufficient detail that the reader may become familiar with the proposed project and its cumulative effects. The summary will include:

- A. A description of the existing problem;
- B. A description of each alternative;
- C. A listing of each alternative's potential environmental impacts, mitigative measures, and any areas of controversy; and
- D. Any major conclusions;

3. The body of the EIS which *[shall]* **will** contain the following information:

A. A complete and clear description of the purpose and need for the proposed project that clearly identifies its goals and objectives;

B. A balanced description of each alternative considered by the *[applicant]* **recipient**. The descriptions will include the size and location of the facilities and pipelines, land requirements, operation and maintenance requirements, and construction schedules. The alternative of no action will be discussed and the *[applicant's]* **recipient's** preferred alternative(s) will be identified. Alternatives that were eliminated from detailed examination will be presented with the reasons for their elimination;

C. A description of the alternatives available to the department including:

- (I) Providing financial assistance to the proposed project;
- (II) Requiring that the proposed project be modified prior to providing financial assistance to reduce adverse environmental impacts or providing assistance with conditions requiring the implementation of mitigative measures; and
- (III) Not providing financial assistance;

D. A description of the alternatives available to other local, state, and federal agencies which may have the ability to issue or deny a permit, provide financial assistance, or otherwise affect or have an interest in any of the alternatives;

E. A description of the affected environment and environmental consequences of each alternative including secondary and cumulative impacts. The affected environment on which the evaluation of each alternative will be based includes, as a partial listing, hydrology, geology, air quality, noise, biology, socioeconomic, land use, and cultural resources of the facilities planning area. The department will provide guidance, as necessary, to the *[applicant]* **recipient** regarding the evaluation of the affected environment. The discussion will present the total impacts of each alternative in a manner that will facilitate comparison. The effects of the no-action alternative must be included to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives. A description of the existing environment will be included in the no-action section to provide background information. The detail in which the affected environment is described will be commensurate with the complexity of the situation and the significance of the anticipated impacts;

4. The draft EIS will be provided to all local, state, and federal agencies and public groups with an interest in the proposed project and be made available to the public for review. The final EIS will include all objections and suggestions made before and during the draft EIS review process along with the issues of public concern expressed by individuals or interested groups. The final EIS must include discussions of any such comments pertinent to the project or the EIS. All commenters will be identified. If a comment has led to a change in either the project or the EIS, the reason should be given. The department will always endeavor to resolve any conflicts that may have arisen, particularly among permitting agencies, prior to the issuance of the final EIS. In all cases, the comment period will be no less than forty-five (45) days;

5. Material incorporated into an EIS by reference will be organized into a supplemental information document and be made available for public review upon request. No material may be incorporated by

reference unless it is reasonably available for inspection by interested persons within the comment periods specified in paragraph (5)(C)4. and subparagraph (5)(C)7.C.;

6. When an EIS is prepared by contractors, either in the service of the *[applicant] recipient* or the department, the department will independently evaluate the EIS prior to issuance of the ROD and take responsibility for its scope and contents. The staff who undertake this evaluation will be identified under the list of preparers along with those of the contractor and any other parties responsible for the content of the EIS; and

7. The public participation required for an EIS is extensive but, depending upon the nature and scope of the proposed project, should be supplemented by the *[applicant] recipient*. The following requirements represent the minimum allowable:

A. Upon making the determination that an EIS is required of a proposed project, the department will distribute a notice of intent to prepare an EIS;

B. As soon as possible after the notice of intent has been issued, the director will convene a meeting of the affected federal, state and local agencies, the *[applicant] recipient* and other interested parties to determine the scope of the EIS. A notice of this scoping meeting may be incorporated into the notice of intent or prepared as in paragraph (5)(B)2. of this rule except that in no case will the notification period be less than forty-five (45) days. As part of the scoping meeting the director will, at a minimum—

(I) Determine the significance of issues and analyze in depth the scope of those significant issues in the EIS;

(II) Identify the preliminary range of alternatives to be considered;

(III) Identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(IV) Discuss the method for EIS preparation and the public participation strategy;

(V) Identify consultation requirement of other laws and regulations; and

(VI) Determine the relationship between the preparation of the EIS and the completion of the engineering report and any necessary arrangements for coordination of the preparation of both documents; and

C. Following the scoping process, the director will begin the identification and evaluation of all potentially viable alternatives to adequately address the range of issues developed in the scoping. A summary of this, including a list of the significant issues identified, will be provided to the *[applicant] recipient* and other interested parties. Preparation of the EIS will be done at the discretion of the department: directly, by the staff; by consultants to the department; or by a consultant contracted by the *[applicant] recipient* subject to approval by the department. In the latter two (2) cases, the consultant will be required to execute a disclosure statement prepared by the department signifying they have no financial or other conflicting interest in the outcome of the project. Both the draft EIS and final EIS will be distributed and made available for public review in a fashion consistent with the requirements of paragraph (5)(B)2. of this rule except that the advertisement and comment period for the public participation will be no less than forty-five (45) days. The department will publish in a newspaper of general circulation in the project area, a notice of availability of the EIS giving locations at which it will be available for public review at least forty-five (45) days prior to making any environmental determination.

#### (6) Environmental *[Review] Determination*.

(A) When the director has determined that a *[n applicant's] recipient's* proposed project may be excluded from a formal environmental review, the director will prepare a *[public notice of the] determination to categorically exclude the project [and the availability of supporting documentation for public inspection]. The notice will be published in a local newspaper of commu-*

*nity-wide circulation by the applicant].* The director, *[concurrent with the publication,]* will distribute the *[notice] determination to [all] interested [parties] federal agencies, state and local governments, and entities that have expressed an interest in the proposed project, and a copy will be available to the public upon request.*

(B) An environmental review of the proposed project, supported by the *[applicant's] recipient's* EID, will be conducted by the director to determine whether any significant impacts are anticipated and whether any changes may be made in the proposed project to eliminate significant adverse impacts. As part of this review, the director may require the *[applicant] recipient* to submit additional information or undertake additional public participation and coordination to support its environmental determination. Based on the environmental review, the director will prepare a FNSI/EA describing—

1. The purpose and need for the proposed project;
2. The proposed project including its costs;
3. The alternatives considered and the reasons for their rejection or acceptance;
4. The existing environment;
5. Any potential adverse impacts and mitigative measures; and
6. Any proposed conditions to the provision of financial assistance and any means provided for the monitoring of compliance with the conditions.

(C) **When the director has determined that a FNSI/EA will be issued, the director will prepare a FNSI/EA.** The FNSI/EA will be distributed to *[all parties, governmental entities and agencies] the interested federal agencies, state and local governments, entities that [may] have expressed an interest in the proposed project and a copy will be available to the public upon request.* No action regarding approval of the engineering report or the provision of financial assistance will be taken by the director for at least thirty (30) days after the issuance of the FNSI/EA.

(D) Public participation requirements for an EIS are detailed in paragraph (5)(B)2. except the ROD and final EIS shall have a forty-five (45)-day period of notice.

*[(E) In accordance with section (7) of this rule, the director will conduct environmental reviews and issue public notices or amended determinations as appropriate.]*

**(8) The director may, on a case-by-case basis, accept the environmental determinations, consistent with the National Environmental Policy Act completed by other state and federal agencies. Environmental determinations completed by other state and federal agencies must be less than five (5) years old unless reaffirmed.**

*AUTHORITY: sections 640.100 and 640.107, RSMo [Supp. 1998] 2016. Emergency rule filed July 15, 1998, effective July 25, 1998, expired Feb. 25, 1999. Original rule filed Aug. 17, 1998, effective April 30, 1999. Amended: Filed June 13, 2018.*

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, attn. Hannah Humphrey, PO Box 176, Jefferson City, MO 65102 or to fac@dnr.mo.gov. To be considered, comments must be received by the close of the public comment period on August 23, 2018 at 5:00 p.m. A public hearing is scheduled for 10 a.m. on August 16, 2018 at the Department of Natural Resources, Elm Street*

Conference Center, Bennett Springs/Roaring River Conference Rooms, 1730 East Elm Street, Jefferson City, MO 65101.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 60—Safe Drinking Water Commission  
Chapter 14—Operator Certification**

**PROPOSED AMENDMENT**

**10 CSR 60-14.010 Classification of Public Water Systems and System Requirements.** The department is amending section (3) and revising Table 1 and Table 2, and making minor changes to section (4).

*PURPOSE: The amendment will revise the classification levels of public water system treatment and distribution systems for the purpose of determining the certification level required for the chief operator and other certified personnel.*

(3) Classification of Public Water Systems.

(A) The department will classify each treatment facility by considering the treatment facility complexity, source of water, type of treatment performed, and, *for surface water systems only,* size. This classification is based on, but may not be limited to, the criteria in Table 1 of this rule. Other treatment technologies not listed in Table 1 will be considered on a case-by-case basis. From this classification process, the department will determine the certification level that a chief operator must have to supervise the operation of the treatment facility. *[Treatment facilities (except as provided in paragraph (3)(B)1. of this rule) will remain classified at the level determined prior to August 1, 2001 or will be classified as indicated by Table 1 of this rule, whichever is the higher classification.]*

(B) The department will classify each distribution system by size and complexity. This classification is based on, but may not be limited to, the criteria in Table 2 of this rule. Other distribution technologies will be considered on a case-by-case basis. From this classification process, the department will determine the certification level that the chief operator must have to supervise the operation of the distribution system.

*[1.] Systems that only chlorinate, reduce the hardness of the water by ion exchange, or provide no treatment will be classified as distribution systems.*

*[2. DS-III distribution system operator certificates shall be issued to all operators who possess a valid Missouri drinking water system operator certificate on August 1, 2001.]*

(C) The classification of public water systems, the operational control of which relies on extensive instrumentation, automation, and **Supervisory Control and Data Acquisition (SCADA)** systems, will be determined on a case-by-case basis.

*[(D) If changes in the method of classifying water systems result in a reclassification of a water treatment system, then the chief operator shall receive the appropriate certification to continue as chief operator.]*

*[(E)](D) Any public water system owner [can request in writing a hearing before the department to] may appeal the system's classification. The hearing shall be conducted by the director of the department or a hearing officer designated by the director to the Administrative Hearing Commission as provided in section 621.250, RSMo.*

Table 1. [Water] Treatment [System] Facility Classification

The highest level applicable to the system is the classification of the system.		Classification
Source Water	Surface Water source, with treatment facility capacity greater than 1.5 Million Gallons per Day	A
	Surface Water source, with treatment facility capacity less than or equal to 1.5 Million Gallons per Day	B
	Ground Water Under Direct Influence of Surface Water (GWUDI)	B
	<b>Ground Water (Not GWUDI) with treatment facility capacity greater than 1.5 Million Gallons per Day and performing lime softening</b>	<b>B</b>
	Purchased water, with further treatment by the purchasing system (other than chlorination or ion exchange softening)	D
	Ground Water (Not GWUDI), with treatment other than chlorination or ion exchange softening	D
	Ground Water (Not GWUDI) or Purchased Water with chlorination or ion exchange softening only	See Classification Table 2
	Ground Water (Not GWUDI) or Purchased Water with no treatment	
Disinfection	Chlorine Dioxide	B
	Ozone	B
	Ultra Violet Light	D
	Gas Chlorination with one-ton containers	C
	Gas Chlorination, Calcium or Sodium Hypochlorination in combination with other treatment other than ion exchange softening	D
	Chloramines	D
Chemical Treatment	Chemical Oxidation (example—potassium permanganate)	C
	Coagulation—Groundwater	C
	Coagulation—Surface Water	B
	Fluoridation	D
	Ion Exchange (for purposes other than softening including processes such as nitrate removal)	C
	Lime/Soda Softening	C
	Sequestration	D
	pH, alkalinity adjustment	C
Physical Treatment	Adsorption (example—Activated Carbon)	C
	Aeration (examples—cascade, diffused, packed tower, slat tray, spray)	D
	Filtration (example—greensand, pressure, rapid gravity, slow sand)	C
	Reverse Osmosis, Membrane Filtration, Ultrafiltration	B
	Ion Exchange (for softening) is included in all treatment and distribution certifications. The level of certification required will be determined by the other treatment or distribution characteristics as appropriate.	Each type and level

Table 2. <i>[Water]</i> Distribution System Classification.		
The highest level applicable to the system is the classification of the system.		
		Minimum Classification
Population served (by distribution system)	Greater than <i>[10,001]</i> <b>10,000</b>	DS III
	Between 3,301 to 10,000	DS II
	Up to 3,300	DS I
<i>[Pressure Zones]</i>	<i>Multiple, interconnected pressure zones</i>	<i>DS II</i>
	<i>Single pressure zone in system</i>	<i>DS I</i>
Distribution Source Water	Multiple sources (distributed water is blended from more than one treatment facility, well, or purchased source and finished waters from various sources are substantially different in chemical characteristics)	DS III
	<i>[Multiple sources (distributed water is blended from more than one treatment facility, well, or purchased source and finished waters from various sources are substantially the same in chemical characteristics)]</i>	<i>DS II</i>
	<i>Single source (distributed water comes from a single treatment facility, well, or purchased from a single source at any one time)</i>	<i>DS I</i>
System Storage	Multiple gravity storage facilities <i>[ or water must be pumped from storage facility]</i>	DS II
	<i>[Pneumatic tanks or single gravity storage "floating on system"]</i>	<i>DS I</i>
<i>[Valves]</i>	<i>Altitude valves in system</i>	<i>DS III</i>
	<b>Two or more [P]pressure reducing valves [necessary] (excluding those on customer service lines)</b>	DS II
Disinfection	Gas Chlorination is the only distribution system treatment	DS II
	Calcium or Sodium Hypochlorite is the only distribution system treatment	DS I
	Water in distribution systems from surface water source is re-chlorinated	DS III
<i>[Fire Protection]</i>	<i>Fire protection is provided by distribution system</i>	<i>DS II</i>
	<i>No fire protection provided by distribution system</i>	<i>DS I</i>
Ion Exchange (for softening) is included in all treatment and distribution certifications. The level of certification required will be determined by the other treatment or distribution characteristics as appropriate.		Each type and level

#### (4) System Requirements.

(A) The water system owner shall place the direct supervision of each treatment facility and each distribution system under the responsible charge of a chief operator.

1. The chief operator shall possess a valid certificate equal to or greater than the classification of the treatment facility or distribution system.

2. The chief operator can be responsible for both the *[water]* treatment facility and distribution system at the owner's discretion.

3. The chief operator shall have overall responsibility for no more than one (1) surface water treatment system under one public water system identification number, unless otherwise approved by the department on a case-by-case basis.

4. The name of the chief operator shall be supplied to the department by the owner of the public water system and will be on file at all times.

5. In the event the chief operator is no longer available to serve, the owner of the public water system shall notify the department of the vacancy within *[ten (10) working] fifteen (15) calendar* days and shall appoint an interim operator. The interim operator shall be considered the system's certified chief operator for the purposes of complying with 10 CSR 60-14.010 and 10 CSR 60-14.020 on a temporary basis until a properly certified chief operator is hired. Following consultation with the public water system owner, the department will establish a schedule of activities and a timeline for the system to have a certified chief operator who has met all applicable certification requirements.

6. Public water systems shall have a contingency plan for a standby replacement chief operator to be available at all times. This

may be, for example, a second employee certified at the chief operator level, a mutual assistance agreement with a neighboring system, or a pre-arrangement with a contract operator.

7. The owner shall notify the department in writing within *[ten (10) working] fifteen (15) calendar* days after the chief operator is replaced.

(B) If modifications to the public water system change the system's classification to a higher level, the chief operator shall *[be required to]* obtain the higher level certificate by examination.

(F) Contract Operator Agreement.

1. Public water systems employing a certified chief operator through a contract operator ("circuit rider") arrangement to meet the requirements in subsection (4)(A) shall have a written agreement indicating the responsibilities of the operator, including but not necessarily limited to:

A. The minimum frequency of routine visits to the *[water]* treatment facility or distribution system;

B. The operator's duties and responsibilities;

C. The minimum hours the operator will be present for each routine visit;

D. The certification level required by the department for the treatment facility and/or distribution system that the operator is responsible for;

E. The level of certification held by the contract operator;

F. The minimum response time for the operator to be at the water system in the event of an emergency; and

G. The number of employees, if any, hired to assist.

2. Circuit rider operators and other contract operators who are performing the duties of chief operator shall be held accountable for

operational decisions made in their stead.

3. A copy of the current agreement shall be on file at the system at all times and shall be provided to the department upon request.

*AUTHORITY: section 640.100, RSMo [2000] 2016. Original rule filed July 11, 1986, effective Jan. 1, 1987. Amended: Filed March 31, 1992, effective Dec. 3, 1992. Amended: Filed Nov. 15, 2000, effective Aug. 1, 2001. 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 14—Operator Certification**

**PROPOSED AMENDMENT**

**10 CSR 60-14.020 Certification of Public Water System Operators.** The department is amending (1)(K) by removing paragraphs 1., 2., and 3., removing and adding language from (4)(A), removing (4)(B), adding and removing language to (7)(E), adding language to (8)(D) and (8)(H), and removing (J)(K).

*PURPOSE: The amendment revises the requirements for obtaining and renewing a water system treatment or distribution operator certificate, including experience, education, application and examination requirements. The appeals procedures for denial, suspension and revocation of an operator's certificate is being amended to match Section 621.250, RSMo.*

**(1) Training and Experience Required for Certification.**

(C) In order to be eligible for a certificate, the applicant must have accumulated actual or equivalent operational experience and in accordance with Tables 1 and 2.

**Table 1. Experience Requirements for a Water Treatment Certificate.**

Certificate Level	Minimum Actual and Equivalent Experience
A	Five and one-half (5 1/2) years of water treatment facility operating experience (of which two (2) years may be equivalent)
B	Three and one-half (3 1/2) years of water treatment facility operating experience (of which one (1) year may be equivalent)
C	One and one-half (1 1/2) year of water treatment facility operating experience (of which one (1) year may be equivalent)
D	Six (6) months of water treatment facility operating experience (which may be equivalent)

**Table 2. Experience Requirements for a Distribution Certificate.**

Certificate Level	Minimum Actual and Equivalent Experience [Requirements]
DS-III	Three (3) years of water distribution system operating experience (of which one (1) year may be equivalent)
DS-II	One (1) year of water distribution system operating experience (of which six (6) months may be equivalent)
DS-I	Six (6) months of distribution system operating experience (which may be equivalent)

(D) Years of equivalent experience shall be computed from the criteria in Table 3.

1.	Graduation from an approved one (1) year certificate program in water/wastewater technology	1 year equivalent experience
2.	College level course in related field of chemical/biological/ environmental or allied science or public health (grade C or better)	1 month equivalent experience per three (3) semester hours (maximum of 6 months of credit)
3.	Two (2)-year associate degree in related field (chemical/biological/environmental or allied science or public health)	1 1/2 years equivalent experience
4.	Four (4)-year degree or higher in related field (chemical/biological/environmental /allied science /or allied sciences or public health, or civil, mechanical, electrical or related engineering degree)	2 years equivalent experience
5.	Department-approved water treatment training course of at least forty-five (45) contact hours (4.5 CEUs)	1/2 year equivalent treatment facility experience per course (maximum credit of 1 1/2 years) (For multi-day courses, attendance of at least eighty percent (80%) of the course hours is required to receive credit.)
6.	Department-approved water distribution system-training course of at least thirty-five (35) contact hours (3.5 CEUs)	1/2 year equivalent distribution system experience per course (maximum credit of 1 year) (For multi-day courses, attendance of at least eighty percent (80%) of the course hours is required to receive credit.)
7.	Successful completion of a department-approved correspondence course of at least forty-five (45) contact hours (4.5 CEUs)	1/2 year equivalent experience per course towards the appropriate type of certificate (maximum credit of 1 1/2 years)

(K) Upon successful completion of the examination, the individual will have to obtain the necessary applicable [water] treatment or distribution system experience within [the following time frames to be considered for certification:

1. For all levels of examinations taken on or after August 1, 2001, examinees shall have] eighteen (18) months from the date of the examination[;].

2. For A and B level examinations taken prior to August 1, 2001, examinees shall have two (2) years from the date of the examination; and

3. For C and D level examinations taken prior to August 1, 2001, examinees shall have one (1) year from the date of the examination.]

(L) If the necessary experience is not obtained within [these] this time frame[s], the individual must reapply and reexamine.

**(2) Application for Certification Examination.**

(A) Application for certification examination shall be made to the department on forms provided by the department.

1. The completed application must be [received by] submitted to the department at least thirty (30) days prior to the examination date.

2. Failure to provide complete working experience information or academic transcripts with the application will result in no operating experience or education credit given for the incomplete items.

## (3) Examination.

(E) Based on the subjects an operator needs to know for a particular type and level of certification, examinations shall contain, but *[shall] not [necessarily]* be limited to, questions pertaining to: the Missouri Public Drinking Water rules; general water systems knowledge; water quality; applied mathematics; chemistry; biology; environmental sciences; laboratory testing procedures; hydraulics; pumping systems; water storage facilities; system controls; backflow prevention; and water treatment or distribution system operation.

## (4) Certification Without Examination (Grandparenting).

(A) Grandparenting *[is]* permitted only to operators in responsible charge of systems that *[have]* had not been required by the department to have a certified operator prior to August 1, 2001 and **submitted an application for a grandparented certificate to the department prior to February 5, 2003.** This includes operators in responsible charge of the distribution system whose responsibilities are separate from those of the operator in responsible charge of the treatment system.

*[(B) Certificates in appropriate classification type and level shall be issued without examination to no more than three (3) operators in responsible charge when the following conditions are met:*

1. *The owner of the public water system attests that the individual has been an operator in responsible charge making process control/system integrity decisions for at least one (1) year prior to the date of the application for grandparenting;*

2. *An application is submitted by February 5, 2003 on forms provided by the department for each operator in responsible charge being grandparented. Each application shall be signed and dated by the owner and the individual designated for grandparenting; and*

3. *A nonrefundable operator's certificate fee of forty-five dollars (\$45) is submitted for each certificate request.]*

(C) A grandparented certificate *[will be]* is valid only for the operator named on the certificate and only at the water treatment facility or distribution system named on the certificate. Any certificate issued under this provision shall be identified as restricted.

## (7) Denial, Suspension or Revocation of Certificate.

(E) *[The operator shall be afforded a hearing before the department provided that a written request for a hearing is received by the department within thirty (30) days of notification that suspension or revocation proceedings have been initiated. The hearing shall be conducted by the director or a hearing officer designated by the director and shall be conducted in accordance with the procedures set forth in sections 536.070, 536.073, 536.077, 536.080 and 536.090, RSMo.] Any applicant whose certification is denied, suspended, or revoked may appeal to the Administrative Hearing Commission as provided in section 621.250, RSMo.*

## (8) Certificate Renewal.

(D) The department will send a renewal notice to the applicant's last known address at least sixty (60) days prior to the expiration of the certificate. Failure of the department to notify the certified operator of the certificate's pending expiration does not relieve the certified operator of the responsibility for renewing the certificate. **An individual is not certified with an expired certificate.**

(G) A late fee of ten dollars (\$10) per month *[or fraction of it]*, up to a total of twenty dollars (\$20), shall be charged for any certificate renewed after the expiration date.

(H) If *[a certified operator has submitted]* **the department has received** a timely and complete application for renewal, **the individual** possesses sufficient renewal training and, through no personal fault, the department is unable to issue a new certificate before

the expiration date of the current certificate, the current certificate shall remain valid until the department issues its replacement or denies renewal.

*[(J) Individuals certified prior to August 1, 2001 may count their approved water treatment training hours toward the first renewal of their distribution certificate issued under 10 CSR 60-14.010(3)(B)2.]*

*[(K) The first time an operator renews a distribution certificate issued under 10 CSR 60-14.010(3)(B)2. the operator may elect to receive a distribution certificate of a lower level if the lower certification level is, at a minimum, equal to the classification of the distribution system they operate.]*

*AUTHORITY: section 640.100, RSMo [2000] 2016. Original rule filed July 11, 1986, effective Jan. 1, 1987. Rescinded and readopted: Filed July 15, 1991, effective March 1, 1992. Amended: Filed Nov. 15, 2000, effective Aug. 1, 2001. 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](mailto: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 80—Solid Waste Management

#### Chapter 6—Local Solid Waste Management

#### PROPOSED RESCISSION

**10 CSR 80-6.010 Local Solid Waste Management.** This rule described the requirements for the submittal of a solid waste management plan for cities and counties. It clarified the department's requirements for solid waste plans for cities and counties as well as the components of the processes and criteria required to ensure adequate solid waste planning by cities and counties. This requirement is also found in section 260.220, RSMo. The requirement is an unfunded mandate that was challenged in court (*City of Jefferson v. Missouri Department of Natural Resources*, 863 S.W.2d 844 (Mo banc. 1993), and *City of Jefferson v. Missouri Department of Natural Resources*, 913 S.W. 2d 794 (Mo banc. 1996)) and found to violate the Hancock Amendment. The court states that "*absent an appropriation to cover those increases costs, Jefferson City need not comply with the mandate to submit a new plan.*" Funding has never been appropriated for this requirement.

*PURPOSE: This rule is being rescinded because it is obsolete and an unfunded mandate.*

*AUTHORITY: sections 260.215, 260.220 and 260.225, RSMo Supp. 1987. Original rule filed Jan. 29, 1988, effective Aug. 1, 1988. Rescinded: Filed June 7, 2018.*

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

aggregate.

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments will be received until August 28, 2018. A public hearing date is scheduled for 1:00 pm August 21, 2018, at the LaCharrette Conference Room, 1101 Riverside Drive, Jefferson City, Missouri.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 80—Solid Waste Management  
Chapter 7—Infectious Waste Management**

**PROPOSED AMENDMENT**

**10 CSR 80-7.010 Infectious Waste Management.** The department is amending sections (3) and (5) of this rule.

*PURPOSE: This rule amendment is a part of Executive Order 17-03 Red Tape Reduction Initiative and removes regulatory burdens identified as unnecessary.*

(3) Tracking Documents.

(C) Processing Facility.

1. A facility shall not accept infectious waste which is not accompanied by a tracking document completed in accordance with subsections (3)(A) and (B) of this rule.

2. Upon receipt of infectious waste, an authorized agent of the facility shall—

A. Sign and date the accompanying tracking document. The name of the authorized agent signing the document shall be printed or typed on the tracking document; and

B. Note any significant discrepancies in the tracking document on each copy of the document.

*[3. An authorized agent of the infectious waste processing facility shall note on each tracking document whether the location of the generator is a distance of more than a three hundred (300)-mile radius of the facility.]*

*[4.]3. An infectious waste processing facility permitted for the treatment of infectious waste shall record on the tracking document the date the shipment is treated.*

*[5.]4. An infectious waste processing facility permitted as an infectious waste transfer station shall record on the tracking document the date the shipment is transported for further processing.*

*[6.]5. Within thirty-five (35) days after the date the waste was accepted by the transporter, the processing facility shall send a copy of the completed tracking document to the generator.*

*[7.]6. A transfer station shall initiate a tracking document as generator prior to transporting infectious waste shipments for further processing and shall comply with the generator requirements of this rule.*

(5) Permitted Infectious Waste Processing Facility. This section sets forth requirements for solid waste processing facilities permitted for the treatment or other processing of infectious waste. A report shall be submitted to the department containing plans, as defined in 10 CSR 80-2.010, addressing the requirements of sections 260.200–260.345, RSMo and 10 CSR 80.

(A) Treatment Facility. An infectious waste processing facility permitted for the treatment of infectious waste means a facility that has received a solid waste processing facility permit as provided in sections 260.200–260.345, RSMo and 10 CSR 80-2.020, 10 CSR 80-

5.010, and this rule. The solid waste processing facility construction and operating permit shall specifically allow for the treatment of infectious waste as provided by this rule. Two (2) treatment technologies are approved for the treatment of infectious waste by permitted facilities—incineration and steam sterilization. Chemical sterilization and other types of treatment may be approved by the department on a case-by-case basis.

1. Permitted infectious waste incinerators shall be multi-chambered and be designed to provide complete combustion for the type of waste introduced into the incinerator. The incinerator shall achieve a minimum temperature of one thousand eight hundred degrees Fahrenheit (1800 °F) in the secondary chamber with a minimum retention time of one-half (1/2) second in the secondary chamber. Automatic controls that lock out the load system if the secondary chamber is not up to the minimum temperature and automatic, continuous temperature recording charts for the secondary chamber shall be equipped on the incinerator and utilized during any infectious waste treatment process.

A. The operator shall visually inspect each batch of ash from batch-type ash removal systems prior to disposal. The operator shall visually inspect the ash from continuous ash removal systems a minimum of once per hour during operation.

B. Any partially combusted organic materials observed will be noted in the facility log. The facility manager shall be notified and corrective action taken. The corrective action and new ash observations shall be noted in the facility log.

C. Amount of waste treated each hour shall be recorded in the facility log by weight.

D. The plans shall include a statement quantifying the maximum amount, by weight, of infectious waste to be accepted each month.

E. The plans shall contain procedures for the handling of spills during unloading, storage, and processing of the infectious waste.

**F. The plans shall contain procedures for the handling of spills during unloading, storage, and processing of the infectious waste, and the plan will be implemented immediately upon discovery of any spill.**

*[F./]G. A solid waste technician trained in the handling of infectious waste and in the operation of the incinerator shall be on-site during any treatment process. Evidence of training shall be maintained on-site. The plans shall contain an outline of the training, including the name and qualifications of the person(s) providing the training.*

2. Steam sterilization by permitted facilities using autoclaves is an acceptable means of treating infectious waste when operated at sufficient temperatures for adequate periods of time to kill infectious agents present in the waste. Automatic continuous time and temperature recording charts shall be utilized on each unit during operation. Units shall be operated according to manufacturer's recommendations.

A. During initial operational testing, four (4) waste charges representing the maximum amount of waste to be processed in any charge shall be treated. Each charge shall contain all types of waste that are to be treated at the facility and shall be packaged as the waste will be packaged for treatment during normal operations. For each of the four (4) waste charges, three (3) biological indicators approved by the department (such as three (3) vials of *Bacillus stearothermophilus*), shall be placed inside separate containers of simulated waste (that is, sharps containers, autoclaveable bags), distributed throughout the waste charge prior to treatment, recovered after treatment, cultured, and analyzed. Any positive reading constitutes a failure of the treatment process and shall require corrective action and retesting in accordance with this subparagraph.

B. Each sterilizer shall be tested each week by placing one (1) department-approved biological indicator inside a waste container prior to treatment. The biological indicator shall be recovered, cultured, and analyzed. A positive indicator constitutes a failure of the

treatment process. The sterilizer shall not be used to treat infectious waste until corrective action has been taken and results verified. Upon completion of corrective action, the sterilizer shall be retested in accordance with subparagraph (5)(A)2.A. of this rule. Results of biological indicator tests and any corrective action shall be recorded in the facility log.

C. Amounts of waste treated each load shall be recorded in the facility log by weight.

D. Sharps that were treated by steam sterilization shall be packaged in rigid, leak-resistant, and puncture-resistant containers and sealed prior to disposal.

E. Sharps that have been rendered innocuous by an approved method and that have been shredded so as not to pose a puncture hazard are not required to be transported, packaged, or stored in rigid, semi-rigid, leak-resistant, or puncture-resistant containers. Such sharps may be disposed of in a sanitary landfill as a solid waste.

F. The plans shall include a statement quantifying the maximum amount, by weight, of infectious waste to be accepted each month.

G. The plans shall contain procedures for the handling of spills during unloading, storage and processing of the infectious waste, **and the plan will be implemented immediately upon discovery of any spill.**

H. A solid waste technician trained in the handling of infectious waste and in the operation of the steam sterilizer shall be on-site during any treatment process. Evidence of training shall be maintained on-site. The plans shall contain an outline of the training, including the name and qualifications of the person(s) providing the training.

(B) Transfer Stations. To facilitate consolidation of shipments prior to further transport, infectious waste may be transported to a transfer station as defined in 10 CSR 80-2.010. A solid waste processing facility permitted as a transfer station for infectious waste means a facility that has received a solid waste processing facility construction and operating permit as provided in sections 260.200-260.345, RSMo and 10 CSR 80-2.020, 10 CSR 80-5.010, and this rule. The solid waste processing facility construction and operating permit shall specifically allow for the acceptance of infectious waste.

(C) Storage. *In addition to the requirements of 10 CSR 80-5.010, i) Infectious waste at infectious waste processing facilities shall [upon receipt] be placed in a storage area or processing area as approved by the department in the operational report and plans. [Where conflicting storage requirements exist in 10 CSR 80, the more stringent shall control.]*

1. Processing area. Infectious waste at an infectious waste processing facility may be placed into the processing area provided the facility is operational and no infectious waste shall be stored in the processing area at the end of the operating day. For those facilities operating continuously, no infectious waste shall be *[stored]* **kept** in the processing area for more than twenty-four (24) hours.

A. The plans shall contain procedures for the handling of spills in the processing area.

B. The processing area shall have a floor *[impervious to liquids and a floor]* sloped to drains connected to the sanitary sewage system or a collection device.

C. The processing area shall be clearly posted INFECTIOUS WASTE PROCESSING AREA, or BIOHAZARD WASTE PROCESSING AREA, or BIOHAZARD, AUTHORIZED PERSONNEL ONLY and shall display the universal biohazard symbol. Access shall be restricted and limited to authorized personnel.

2. Storage area. Infectious waste at an infectious waste processing facility may be placed into a storage area approved by the department provided the storage area meets the following minimum requirements:

A. For a storage area where infectious waste will be stored for 24 hours or less, the storage area shall be a locked, vermin-free, dry area *[that shall]*, **and not be used for any other purpose;**

**B. For a storage area where infectious waste will be stored**

**for more than twenty-four (24) hours, but no more than seventy-two (72) hours, the storage area shall be a refrigerated, locked, vermin-free, dry area, and not be used for any other purpose;**

*[B.]C.* The plans shall contain procedures for the handling of spills in any storage areas;

*[C.]D.* The storage area shall have a floor *[impervious to liquids]* with a perimeter curb. The floor shall slope to a drain connected to the sanitary sewage system or a collection device. The *[floor and]* perimeter curb shall be capable of containing potential spills and shall be designed to facilitate cleaning of the storage area; and

*[D.]E.* The storage area shall be clearly posted INFECTIOUS WASTE STORAGE AREA, or BIOHAZARD WASTE STORAGE AREA, or BIOHAZARD, AUTHORIZED PERSONNEL ONLY and shall display the universal biohazard symbol. Access shall be restricted and limited to authorized personnel.

(D) Fees. Any person who transports infectious waste to a permitted infectious waste processing facility shall pay a fee on any infectious waste so delivered as provided in sections 260.200-260.345, RSMo. A person generating one hundred kilograms (100 kg) or less of infectious waste per month and hospitals as defined in section 197.020, RSMo and located in Missouri are exempt from the fees requirement of this rule provided the infectious waste is transported using the generator's employees and vehicles.

1. An infectious waste processing facility shall collect a fee of two dollars per ton (\$2/ton) of infectious waste delivered to the facility.

*[2. In addition to the requirements of paragraph (5)(D)1. of this rule, an infectious waste processing facility accepting infectious waste transported from a distance of more than a three hundred (300)-mile radius of the facility shall collect a fee of ten percent (10%) of the total dollar amount charged by the facility for the management of that waste.]*

*[3.]2.* Fees assessed by an infectious waste processing facility as provided in sections 260.200-260.345, RSMo shall be transmitted quarterly to the department within thirty (30) days of the end of each calendar quarter. A quarterly report shall be submitted with the fees.

A. The quarterly report shall specify the quantity of infectious waste received during that calendar quarter that was subject to fees. *[The report shall include a breakdown of the quantity of infectious waste, by weight, transported more than a distance of a three hundred (300)-mile radius of the facility and the quantity of infectious waste, by weight, transported from a radius of three hundred (300) miles or less from the facility.]*

*[B. The quarterly report shall specify the total dollar amount charged by the facility during the calendar quarter for infectious waste transported from a distance of more than a three hundred (300)-mile radius of the facility.]*

*[C.]B.* An authorized representative of the facility shall sign and date the report and certify that the submitted information is true, accurate, and complete for the quarterly accounting of infectious waste delivered to the facility and subject to fees.

*AUTHORITY: sections 260.203[ , RSMo 1994] and 260.225, RSMo [Supp. 1997] 2016. Original rule filed Oct. 15, 1987, effective March 25, 1988. For intervening history, please consult the Code of State Regulations. Amended: Filed June 7, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition*

to this proposed amendment with the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments will be received until August 28, 2018. A public hearing date is scheduled for 1:00 pm August 21, 2018, at the LaCharrette Conference Room, 1101 Riverside Drive, Jefferson City, Missouri.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 80—Solid Waste Management  
Chapter 8—Scrap Tires**

**PROPOSED AMENDMENT**

**10 CSR 80-8.020 Scrap Tire Collection Centers and End-User Registration.** The department is amending the rule title, purpose, sections (2), (4), (5), and subsections (1)(D), (3)(A), (3)(B), and (3)(C).

*PURPOSE: This rule is being amended to update the requirements for scrap tire collection centers and end-user registration.*

*PURPOSE: This rule contains the requirements for scrap tire collection centers and end-user registration.*

(1) Definitions. Definitions for key words used in this rule may be found in section 260.200, RSMo. Additional definitions specific to this rule are as follows:

**(D) A scrap tire that has been reduced to parts no larger than one-half inch (1/2") nominal is not a scrap tire.**

(2) General Requirements. **Scrap tire collection centers shall—**

(A) *[Scrap tire collection centers shall b]Be used only for the proper and temporary storage of scrap tires. Scrap tires shall,] to be removed for recovery or processing or for temporary storage at a permitted scrap tire processing facility or for permanent disposal at a permitted solid waste disposal area.];*

(B) *[The collection center must b]Be in compliance with the requirements of the department's Clean Water Law, Chapter 644, RSMo, and implementing regulations.]; and*

(C) *[All] As a tire retailer[s] or other business/es/ that generates scrap tires, [shall] use a scrap tire hauler permitted by the state of Missouri, except that businesses may haul such scrap tires without a permit, if such hauling is performed without any consideration (monetary or non-monetary compensation) and such business maintains records on the scrap tires hauled as required by section (5) of this rule.*

*[(D) Tire retailers shall not be liable for illegal disposal of scrap tires after such scrap tires are delivered to a scrap tire hauler, scrap tire collection center, scrap tire processing facility or scrap tire end-user facility if such entity is permitted by the state of Missouri.]*

(3) Applicability.

(A) Exemptions. The following are not regulated as scrap tire collection centers provided that pollution, a public nuisance, or a health hazard is not created and provided the tires are stored according to the requirements of section (4) of this rule:

1. A person collecting or storing less than twenty-five (25) scrap tires at any time;

2. Warranty tires or new defective tires stored by tire retailers and wholesalers prior to transit to the wholesaler or manufacturer for adjustment credit or return;

3. Tires that are to be reused without further processing as vehicle tires (reused for the original intended purpose) that are separated from scrap tires within thirty (30) days of receipt at a scrap tire collection center, provided these tires are stored in compliance with the requirements of section (4) of this rule and are not stored outside for more than one (1) year;

4. Any new-tire retailer or new-tire wholesaler may hold more than five hundred (500) scrap tires for a period not to exceed thirty (30) days if such tires are stored according to requirements in section (4) of this rule;

5. Any person licensed as an auto dismantler and salvage dealer under Chapter 301, RSMo may, *[without further license, permit or payment of fee,] store [but shall not burn or bury on his/her property,] up to five hundred (500) scrap tires that have been cut, chipped or shredded, if such tires are only from vehicles acquired by him/her, and such tires are stored in accordance with section (4) of this rule.* Auto dismantlers and salvage dealers must arrange for the proper disposal of the scrap tires to take place within thirty (30) days. *[Appropriate] and keep appropriate documentation of the disposal arrangements which shall be made available to the department upon request. In no case shall more than five hundred (500) scrap tires be stored for more than thirty (30) days unless the auto dismantler and salvage dealer is permitted as a scrap tire processor;*

6. Retreadable tire casings held in inventory by tire retreaders for retreading that are stored separately from other scrap tires, provided these tires are stored in compliance with section (4) of this rule and provided they are not stored outside for more than one (1) year; or

7. Tires stored in conjunction with a department-approved or nonprofit cleanup if the scrap tires are stored for a period not to exceed thirty (30) days are exempt from this rule.

*[(B) This rule shall pertain to whole, cut, shredded, baled or chipped scrap tires.]*

*[(C)](B) Underground storage of scrap tires requires a permit as a solid waste disposal area and [shall comply] compliance with the requirements of 10 CSR 80.*

(4) Storage Requirements.

(A) Fire Protection. A scrap tire collection center shall comply with the fire protection requirements of this subsection.

1. The owner or operator of a scrap tire collection center shall provide written evidence from the local fire protection agency that indoor or outdoor storage of whole or processed scrap tires complies with the currently applicable local or state fire protection standards, or *[the scrap tire collection center must comply with the 2006 International Fire Code, published by the International Code Council, Inc., 4051 W. Flossmoor Road, Country Club Hills, IL, 60478-5795, copyright 2006, which by this reference is incorporated into this rule. This rule does not incorporate any subsequent amendments or additions] store scrap tires at least forty feet (40') from buildings and property lines where practical.*

*[(B) Location. Scrap tire collection centers shall not be located in a wetland, sinkhole or floodplain (unless protected against at least the one hundred (100)-year flood design by impervious dikes or other appropriate means to prevent the flood waters from contacting the scrap tires).]*

*[(C)](B) Vector Control. Conditions shall be maintained that are unfavorable for the harboring, feeding and breeding of vectors. If the method being used to control vectors is not effective, the owner/operator of the scrap tire collection center shall use an alternate method to correct the vector problem. [The owner/operator of a scrap tire collection center storing tires shall use one (1) or more of the following methods of vector control:]*

*[1. Drain tires of water and keep them dry within a building, enclosed trailer or under a cover that is impermeable.*

*2. Alter tires so they do not retain water;*

*3. Treat the tires with a larvicide and/or adulticide appropriate to prevent the development of mosquito larvae and pupae and repeat treatment as often as necessary to prevent this development, taking into account the effectiveness and life of the larvicide and/or adulticide utilized;*

A. Larvicides and/or adulticides shall be applied in accordance with their labels, Chapter 281, RSMo and its implementing regulations.

B. The dimensions of the tire pile and the method of stacking the tires must allow for application of the larvicide and/or adulticide to all tires; and

4. Alternate methods of vector control must be approved by the department.]

(5) Record Keeping Requirements.

(A) The owner/operator of a scrap tire collection center shall maintain records, on forms provided by or approved by the department[, as required by this rule. All records required by this rule shall be kept] for at least three (3) years. The period of record retention extends upon the written request of the department or automatically during the course of any unresolved enforcement action regarding the regulated activity. The records shall be made available for inspection by the department or its designated representative upon request. Scrap tire collection centers shall also maintain records of vector control activities.

(B) The owner/operator of a scrap tire end-use facility shall maintain records pursuant to 260.270.3(5).

*AUTHORITY: sections 260.225 [RSMo 2000] and 260.270, RSMo [Supp. 2006] 2016. Original rule filed Jan. 3, 1991, effective July 8, 1991. For intervening history, please consult the Code of State Regulations. Amended: Filed June 7, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments will be received until August 28, 2018. A public hearing date is scheduled for 1:00 pm August 21, 2018, at the LaCharrette Conference Room, 1101 Riverside Drive, Jefferson City, Missouri.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 80—Solid Waste Management  
Chapter 8—Scrap Tires**

**PROPOSED AMENDMENT**

**10 CSR 80-8.030 Scrap Tire Hauler Permits.** The department is amending sections (1), (2), and (3).

*PURPOSE: The rule is necessary as to maintain consistency with permitted facilities and promote a level playing field for all facilities. The rule will also ensure protection of human health and the environment. The overall reduction in wording is to streamline the rule.*

*PURPOSE: This rule sets forth requirements for obtaining a permit as a scrap tire hauler.*

(1) Applicability.

(A) Definitions. Definitions for key words used in this rule may be found in section 260.200, RSMo[. Additional definitions specific to this rule are as follows:] and 10 CSR 80-8.020(1).

[1. A scrap tire is a tire that is no longer suitable for its original intended purpose because of wear, damage or

defect.

A. A tire no longer suitable for its original intended purpose due to wear is a tire with exposed cord or tread depth less than two thirty-seconds of an inch (2/32") when measured in any major groove.

B. Any tire that is discarded with the intent of final disposal is also a scrap tire.

C. A cut tire, for the purposes of disposal in a permitted solid waste disposal area, is a scrap tire cut in half circumferentially; sidewalls removed from tread; or cut into at least three (3) parts with no part being larger than approximately one-third (1/3) of the original tire's size.

D. A shredded or chipped tire, for the purposes of disposal in a permitted solid waste disposal area, is a scrap tire that has been reduced to parts no larger than that defined in the definition of a cut tire.

E. A passenger tire equivalent (PTE), for the purposes of calculating the amount of tires, equals twenty (20) pounds.]

(2) Scrap Tire Hauler Permit Requirements.

(A) Permit Application. A person applying for a scrap tire hauler permit shall submit the following information to the Missouri Department of Transportation, Motor Carrier Service, PO Box 893, Jefferson City, MO 65102-0893. [This information must be submitted at least thirty (30) days prior to expiration of the permit.]

1. A completed application form provided by the Missouri Department of Transportation.

2. Other information deemed necessary by the Missouri Department of Natural Resources and the Missouri Department of Transportation to ascertain compliance with sections 260.200 through 260.345, RSMo and implementing rules.

3. A nonreturnable scrap tire hauler permit fee in the amount of one hundred dollars (\$100) shall be submitted with the completed application form[. The fee shall] and be in the form of a check or money order made payable to the Department of Natural Resources.

(B) Application Review, Approval, and Denial. The Missouri Department of Natural Resources and the Missouri Department of Transportation [shall] will review applications submitted under this rule. The Missouri Department of Transportation shall approve the application and issue a permit or [shall] deny the application.

(C) Permit Issuance, Suspension and Revocation. A scrap tire hauler permit issued pursuant to this rule [shall remain] is valid for a period of one (1) year unless suspended or revoked by the Missouri Department of Transportation. A scrap tire hauler permit may be revoked or suspended for noncompliance with the provisions of sections 260.200 through 260.345, RSMo or corresponding rules.

[(D) A person who has, within the preceding twenty-four (24) months, been found guilty or pleaded guilty to a violation of section 260.270, RSMo which involves the transport of scrap tires may not be granted a permit to transport scrap tires unless the person seeking the permit has provided to the Missouri Department of Natural Resources, Scrap Tire Unit and to the Missouri Department of Transportation, Motor Carrier Service a performance bond or letter of credit as provided under this subsection.

1. The bond or letter shall be conditioned upon faithful compliance with the terms and conditions of the permit and section 260.270, RSMo and shall be in the amount of ten thousand (\$10,000) dollars.

2. Such performance bond, placed on file with the Department of Natural Resources, shall be in one (1) of the following forms:

A. A performance bond, payable to the Department of Natural Resources and issued by an institution authorized to issue such bonds in this state; or

B. An irrevocable letter of credit issued in favor of and

payable to the Department of Natural Resources from a commercial bank or savings and loan having an office in the state of Missouri.

3. Upon determination by the Department of Natural Resources that a person has violated the terms and conditions of the permit or section 260.270, RSMo, the Department of Natural Resources shall notify the person that the bond or letter of credit shall be forfeited and the moneys placed in an appropriate subaccount of the Solid Waste Management Fund, created under section 260.330, RSMo for remedial action.

4. The Department of Natural Resources shall expend whatever portion of the bond or letter of credit necessary to conduct resource recovery or nuisance abatement activities to alleviate any condition resulting from a violation of section 260.270, RSMo or the terms and conditions of a permit.

5. The requirement for a person to provide a performance bond or a letter of credit under this rule shall cease for that person after two (2) consecutive years in which the person has not been found guilty or pleaded guilty to a violation of section 260.270, RSMo.]

(3) Operating Requirements.

(A) Record Keeping.

1. During periods when a vehicle contains scrap tires, a scrap tire hauler shall maintain the current permit inside in the vehicle.

2. Record Keeping Requirements. A scrap tire hauler shall maintain tracking and summary reports [as required by the Department of Natural Resources] on forms provided by or approved by the Department [of Natural Resources or on similar forms or in a similar format that has been preapproved by the Department of Natural Resources]. The tracking report(s) shall be filled out for each load delivered to an approved destination and [shall] include all applicable collection and receiver data. The reports shall be [submitted] made available to the Department of Natural Resources[, Solid Waste Management Program, PO Box 176, Jefferson City, MO 65102 by the fifteenth of each month after the date the tires were delivered to their destination] upon request or at the time of an inspection.

3. All records [required by this rule] shall be kept for at least three (3) years. The period of record retention extends upon the written request of the Department of Natural Resources or automatically during the course of any unresolved enforcement action regarding the regulated activity. [The records shall be made available for inspection by the Department of Natural Resources or its designated representative upon request.]

(B) Destination. A permitted scrap tire hauler shall transport scrap tires to—

[1. A registered scrap tire end user provided that the end user is in compliance with all applicable state and federal laws and regulations;]

[2.]1. A solid waste disposal area or transfer station permitted by the Department of Natural Resources;

[3.]2. A solid waste processing or scrap tire processing facility permitted by the Department of Natural Resources;

[4.]3. A scrap tire collection center;

[5.]4. A permit-exempt facility, provided the scrap tires are stored and/or processed in compliance with 10 CSR 80-8.050(5); or

[6.]5. Out-of-state (provided that transport and the final destinations are in compliance with the requirements of that state).

(C) [Mixed Loads.No tires shall be transported with other material on one vehicle if it could result in a hazardous combination likely to cause explosion, fire or release of a dangerous or toxic gas or in violation of any applicable federal, state or local law or regulation.] Scrap tires sorted from used tires shall not be stored in excess of seven (7) consecutive days.

(D) [Any person permitted as a s]Scrap tire haulers shall notify the Missouri Department of Natural Resources, Scrap Tire Unit

and Missouri Department of Transportation, Motor Carrier Service within thirty (30) days of any change of address, phone number, type and number of vehicles, or destination of tires hauled. [Registered or certified mail sent to a permitted scrap tire hauler with proper postage and last known address that is returned unclaimed shall be considered adequate notification of notice served. Refusal to accept mail is a violation of these regulations.]

AUTHORITY: sections 260.225, [RSMo 2000] 260.270, and 260.278, RSMo Supp. [2006] 2016. Original rule filed Jan. 3, 1991, effective July 8, 1991. For intervening history, please consult the Code of State Regulations. Amended: Filed June 7, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments will be received until August 28, 2018. A public hearing date is scheduled for 1:00 pm August 21, 2018, at the LaCharrette Conference Room, 1101 Riverside Drive, Jefferson City, Missouri.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 80—Solid Waste Management  
Chapter 8—Scrap Tires**

**PROPOSED AMENDMENT**

**10 CSR 80-8.050 Scrap Tire Processing [Facility] Permits.** The department is amending the rule title, sections (1) and (6), and subsections (2)(A), (3)(C), (4)(A), (4)(B), (4)(C), (5)(A), (5)(D), (5)(E), (5)(F), (7)(B), and (7)(C).

PURPOSE: The rule is necessary as to maintain consistency with permitted facilities and promote a level playing field for all facilities. The rule will also ensure protection of human health and the environment. The overall reduction in wording is to streamline the rule.

PURPOSE: This rule contains the requirements for scrap tire processing facility permits.

(1) Definitions. Definitions for key words used in this rule may be found in section 260.200, RSMo and 10 CSR 80-8.020. Additional definitions specific to this rule are as follows:

[(A) A scrap tire is a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

1. A tire no longer suitable for its original intended purpose due to wear is a tire with exposed cord or tread depth less than two thirty-seconds of an inch (2/32") when measured in any major groove.

2. Any tire that is discarded with the intent of final disposal is also a scrap tire.

3. A cut tire, for the purposes of disposal in a permitted solid waste disposal area, is a scrap tire cut in half circumferentially; sidewalls removed from tread; or cut into at least three (3) parts with no part being larger than approximately one-third (1/3) of the original tire's size.

4. A shredded or chipped tire, for the purposes of disposal in a permitted solid waste disposal area, is a scrap tire that has been reduced to parts no larger than that defined in

the definition of a cut tire.

(B) For purposes of this rule, a scrap tire that has been reduced to parts no larger than one-half inch (1/2") nominal is not a scrap tire.

(C) A passenger tire equivalent (PTE), for the purposes of calculating the amount of tires, equals twenty (20) pounds.]

[(D)](A) A scrap tire processing facility is a site where tires are reduced in volume by shredding, cutting, buffing, chipping, baling, or otherwise altered to facilitate recycling, resource recovery, or disposal. A person who operates mobile or stationary scrap tire processing equipment is a scrap tire processing facility under this rule[.];

[(E)](B) A scrap tire site is a site at which five hundred (500) or more scrap tires are accumulated. No new scrap tire sites shall be permitted by the department after August 28, 1997, unless they are located at permitted scrap tire [processing] facilities [or registered scrap tire end-user facilities.]; and

[(F)](C) A mobile scrap tire processor is a scrap tire processing operation that provides scrap tire removal services for the abatement of scrap tire sites, or for scrap tire collection centers by operating mobile scrap tire processing equipment at remote locations, and that does not store whole or processed scrap tires at any location at any time.

## (2) General Requirements.

(A) This rule is intended to provide minimum requirements for operation of a scrap tire processing facility and a mobile scrap tire processor. If techniques other than those listed in this rule are to be used, it is the obligation of the owner/operator to demonstrate to the department in advance that the techniques to be employed satisfy the requirements. Detailed processing facility and operational plans [for the techniques] shall be submitted to the department in writing and approved by the department in writing prior to being employed. The techniques utilized shall not result in pollution, a public nuisance, or a health hazard.

## (3) Applicability.

[(C) All scrap tire sites must be permitted as a scrap tire processing facilities under 10 CSR 80-8.050.]

## (4) Scrap Tire Processing Facility Permit Application.

(A) A person desiring to establish, maintain, or operate a scrap tire processing facility shall [make] submit an application to the department in triplicate **hardcopies or one (1) electronic** on forms provided by the department. Scrap tire processing facilities, as defined in section 260.200(38), RSMo and this rule, are not authorized to operate unless permitted by the department.

(B) An application for a scrap tire processing facility permit shall be sent [by certified mail] to the Missouri Department of Natural Resources, Solid Waste Management Program, PO Box 176, Jefferson City, MO 65102-0176. The application shall consist of:

1. A completed Scrap Tire Processing Facility Permit Application form which will be provided by the department;

2. Detailed site plans and operational plans containing the information necessary to comply with the storage and record keeping requirements of this rule[.Plans shall include], **including**:

A. An estimate of the inventory of scrap tires that can be processed or used in six (6) months of normal and continuous operation. This estimate shall be based on the volume of tires processed or used by the facility in the last year, or the manufacturer's estimated capacity of the processing equipment. This estimate may be increased when new equipment is obtained by the owner of the facility and may be reduced if equipment used previously is removed from active use[.];

[Active use will be determined on a case-by-case basis and will be based on the provisions of the permit;]

B. Topographic and boundary surveys prepared by a registered land surveyor showing contour intervals of ten feet (10') or less[. This survey shall], having a scale of not less than one inch

equals four hundred feet (1"=400')[.], and including [A/all existing and proposed storage areas and structures [shall be shown on the survey];

C. A map showing the land use and zoning within five hundred feet (500') of the property boundaries, including the location of all residences, buildings, utilities, and easements[. This map shall have] and having a scale of not less than one inch equals four hundred feet (1"= 400'); and

D. Detailed plans containing the information necessary to comply with the closure requirements and financial assurance instrument requirements of this rule;

3. A contingency plan designed to minimize the hazards to human health and the environment from fires, runoff of contaminants resulting from fires and from mosquitoes in case of failure of the primary method of vector control. The contingency plan shall include, but not be limited to, the following items, as applicable:

A. The actions site personnel [must] take in response to fires, runoff resulting from fires and [mosquito breeding in scrap tires] **vector control**;

B. An evacuation plan for site personnel, in case of fire; and

C. Evidence that the fire contingency plan has been provided to the local fire and police departments;

4. Plans for final disposition of the scrap tires;

5. Evidence of compliance with the department's Clean Water Law, Chapter 644, RSMo, and implementing regulations;

6. Evidence of compliance with local zoning requirements;

7. Evidence of property ownership;

8. Explicit written authorization from the property owner, if different from the applicant, for land use for scrap tire storing and processing operations; and

9. Nonreturnable processing facility permit fee of two hundred dollars (\$200). The fee shall be paid by certified check or money order made payable to the Missouri Department of Natural Resources.

(C) The applicant shall reimburse the department for all permit review costs incurred by the department up to a maximum of two thousand dollars (\$2,000). The department will submit a bill to the applicant for review costs incurred after completion of the investigation of the original application [and upon completion of the investigation of any subsequent submittals]. Payment must be received before the permit will be issued. Permit review costs [shall] include: permit application review time and costs associated with site visits.

## (5) Storage Requirements.

### (A) Fire Protection.

1. The owner or operator of a scrap tire processing facility shall provide written evidence from the local fire protection agency that indoor and outdoor storage of whole or processed scrap tires complies with the currently applicable local or state fire protection standards[, or the scrap tire processing facility must comply with the 2006 International Fire Code, published by the International Code Council, Inc., 4051 W. Flossmoor Road, Country Club Hills, IL, 60478-5795, copyright 2006, which by this reference is incorporated into this rule. This rule does not incorporate any subsequent amendments or additions]. **Scrap tires stored outdoors must be at least forty feet (40') from buildings and property lines. Scrap tire piles shall not exceed one hundred feet (100') by fifty feet (50') by ten feet (10') high in size.**

(D) Site Control. Scrap tire processing facilities shall be fenced or enclosed or otherwise made [inaccessible. Signs shall be] **restricted and include signage** posted to prohibit unauthorized entry. [(Wording such as "Access Restricted to Authorized Haulers Only" should be used.)]

(E) Vector Control. Conditions shall be maintained that are unfavorable for the harboring, feeding, and breeding of vectors. If the method being used to control vectors is not effective, the owner/operator of the scrap tire processing facility shall use an alternative method to correct the vector problem. [The owner/operator

of a scrap tire processing facility shall use one (1) or more of the following methods of vector control:]

1. Drain tires of water and keep dry within a building, enclosed trailer or under a cover that is water impermeable. The cover shall be maintained to be water impermeable;

2. Alter tires so they do not retain water;

3. Treat the tires with a larvicide and/or adulticide appropriate to prevent the development of mosquito larvae and pupae and repeat treatment as often as necessary to prevent such development, taking into account the effectiveness and life of the larvicide and/or adulticide utilized.

A. Larvicides and/or adulticides shall be applied in accordance with their label, Chapter 281, RSMo and its implementing regulations.

B. The dimensions of the tire pile and the method of stacking the tires shall allow for application of the larvicide and/or adulticide to all tires.

4. Alternate methods of vector control must be approved by the department if documented to control larvae, pupae and adult mosquitoes.]

(F) Inventory. The inventory of unprocessed scrap tires on the premises of the facility shall not exceed the amount that can be used in six (6) months of normal and continuous operation. This amount [shall be] is based on the volume of tires used by the facility in the last year or the manufacturer's estimated capacity of the equipment used by the facility. The inventory of processed scrap tires on the premises of the facility shall not be more than twice the amount of unprocessed tires allowed by this rule.

(6) Record Keeping Requirements. The owner/operator of a scrap tire processing facility shall maintain [the records required by this rule. A]all records required by this rule [shall be kept] for at least three (3) years. The period of record retention extends upon the written request of the department or automatically during the course of any unresolved enforcement action regarding the regulated activity. The records shall be made available for inspection by the department or its designated representative upon request/. The records shall and include at least the following:

(A) Major operational problems, complaints, and difficulties;

(B) On forms provided by or approved by the department, the number of tires received each week, number of tires removed to final disposition each week, final disposition of removed tires, and the name and permit number, if applicable, of each scrap tire hauler bringing tires to or removing tires from the facility. This information shall be summarized monthly; and

(C) Records of Vector Control Activities. [For a scrap tire processing facility utilizing a larvicide and/or adulticide for vector control, t]The records shall include the following:

1. If the larvicide/adulticide is applied by a registered pest control company, the name of the company and the date of application; or

2. If the larvicide/adulticide is not applied by a registered pest control company, type(s) of larvicide/adulticide utilized, amount utilized, and date applied.

(7) Closure, Financial Assurance.

(B) Closure Plan Requirements.

1. Plans for closure of the scrap tire processing facility shall include methods, time schedules, and cost estimates for removal of all scrap tires and site clean-up and restoration activities. The cost estimates for the amount of the financial assurance instrument shall be based upon the current costs of similar cleanups using data from actual scrap tire cleanup project bids received by the department to remediate scrap tire sites of similar size. The following shall be performed as a part of closure of a scrap tire processing facility [and shall be included in the plans]:

A. Removal and clean-up plans and cost estimates. Scrap tires shall be removed from the site and taken to a Missouri facility that

has obtained applicable permits from the department or taken out-of-state (provided that transport and final destinations are in compliance with the requirements of that state)]. The site shall be cleaned up so as to remove] as well as all other solid waste so as to provide a pleasing appearance;

B. Site restoration plans and cost estimates. [If necessary, r]Removal of any contaminated soil, debris, residue, and/or placement of cover and establishment of vegetation in a manner as to minimize erosion, control drainage, and provide a pleasing appearance/. For the purposes of financial assurance instruments, the cost of removal of at least fifty percent (50%) of processed scrap tire material that has been reduced to parts no larger than one-half inch (1/2") nominal];

C. The owner/operator must demonstrate in the closure plan that the estimate represents the maximum closure costs at any time during the active operation of the scrap tire site; and

D. The cost estimate(s) submitted with the closure plan shall contain an estimate in current dollars (based upon the current costs of similar cleanups using data from actual scrap tire clean-up project bids received by the department to remediate scrap tire sites of similar size) and an adjusted estimate for the succeeding five (5) years based on the projected rate of inflation. The rate of inflation used for this purpose [shall be] is calculated by using the latest percent change in the Implicit Price Deflator for the Gross Domestic Product for the latest completed year, as determined by the United States Department of Commerce, Bureau of Economic Analysis. The adjusted cost estimate shall be used to determine the amount of the financial assurance instrument[; and].

E. The closure cost estimates shall be adjusted every five (5) years by the owner/operator based upon the actual rate of inflation for the preceding five (5) years and the projected rate of inflation for the succeeding five (5) years. The adjusted cost estimates shall be submitted to the department for review every five (5) years after the date of permit issuance.]

2. The owner/operator of a scrap tire processing facility shall notify the department in writing at least ninety (90) days prior to the date the owner/operator expects to begin closure/. The owner/operator shall and begin implementation of the closure plan [required in this rule] within thirty (30) days after the closure date specified in the closure plan.

3. Owner/operators of a permitted scrap tire processing facility [as a part of closure of the scrap tire site,] shall execute an easement with the department, which allows the department, its agents or its contractors to enter the premises to complete work specified in the closure plan, to monitor or maintain the scrap tire site, or take remedial action. This easement will be terminated upon proper closure of the site.

4. If changes in the design and/or operation of a scrap tire processing facility make modifications in the closure plans or cost estimates necessary, modified closure plans and cost estimates shall be submitted to the department for approval prior to implementation of the changes.

(C) Financial Assurance Requirements.

1. A permit will not be issued until financial assurance instruments as required by subsection (7)(C) of this rule have been submitted and approved by the department.

A. Increasing and decreasing financial assurance instruments. The following shall apply to all financial assurance instruments as specified in paragraph (7)(C)2. of this rule except the financial test, corporate guarantee and insurance[:]. When the estimated closure cost increases, the amount of the financial assurance instrument shall be adjusted to cover the increase in the cost estimate. The owner/operator shall increase the amount of the financial assurance instrument within one hundred eighty (180) days of the increase in the estimate and submit written evidence of the increase to the director or obtain other financial assurance as specified in paragraph (7)(C)2. of this rule to cover the increase. If the current closure cost

decreases and the owner/operator has received written approval from the director of this decrease, the owner/operator may decrease the amount of the closure financial assurance instrument.

B. Release of closure financial assurance instruments. The department will inspect a permitted scrap tire processing facility when notified by the owner/operator that the closure plan has been implemented. If the inspection reveals that the approved closure plan has been properly effected, the director shall authorize the release or proportional release of the financial assurance instrument submitted for closure and interest, if any.

C. Forfeiture of financial assurance instruments. If the owner/operator fails to properly implement the closure plan, the director will give written notice of the violation and order the owner/operator to implement the closure plan. If corrective measures approved by the director are not commenced within a specified and reasonable time, the director will order forfeiture of all or that part of the owner/operator's financial assurance instrument necessary to implement the closure plans. Any owner/operator aggrieved by a forfeiture order may appeal as provided in section 536.150, RSMo.

2. Financial assurance instruments. The requirements of subsection (7)(C) of this rule for financial assurance instrument(s) for closure may be satisfied by establishing a trust fund or escrow account, securing a financial guarantee bond or a performance bond, obtaining an irrevocable letter of credit, insurance, or a combination of these as outlined in [paragraph (7)(C)2. of this rule. This requirement may also be satisfied by meeting a financial test and by using a corporate guarantee. A municipality or county may satisfy the requirements by signing a contract of obligation] **10 CSR 80-2.030(4)(D)**.

(A. Trust fund or escrow account. The establishment of a trust fund or escrow account may be used to satisfy the requirement for a financial assurance instrument to provide for closure.

(I) A bank or other financial institution which is authorized to administer trusts in Missouri and whose trust operations are regulated and examined by Missouri or a federal agency shall act as the trustee of the closure trust fund. An escrow account shall be established at a bank or financial institution which is located in Missouri and which is examined by Missouri or a federal agency.

(II) The trust fund or escrow account shall consist of cash, certificates of deposit or United States government securities. United States government securities include treasury bills, treasury bonds and treasury notes guaranteed by the federal government.

(III) Wording of trust fund or escrow account agreements.

(a) The wording of the trust fund agreement must be identical to the wording specified in form MO 780-1272 and the trust fund agreement must be accompanied by a formal certification of acknowledgment form MO 780-1271. An original or an originally signed duplicate of the trust fund agreement shall be submitted to the department.

(b) The wording of the escrow account agreement shall be identical to the wording in form MO 780-1264. An original or an originally signed duplicate of the escrow account agreement shall be submitted to the department.

(IV) If the owner/operator establishes a trust fund or escrow account after having used one (1) or more alternate mechanisms specified in paragraph (7)(C)2. of this rule, the first payment must be in at least the amount that the trust fund or escrow account would contain if the trust fund or escrow account were established initially and annual payments made based upon the current costs of similar cleanups using data from actual scrap tire clean-up project bids received by the department to remediate scrap tire sites of similar size.

(V) If an owner/operator substitutes other financial assurance as specified in subsection (7)(C) of this rule for all or part of the trust fund or escrow account, s/he may submit a written request to the department for release of all or a portion of the amount covered by the trust fund or escrow account.

(VI) Within sixty (60) days after receiving a request from the owner/operator for release of funds as specified in part (7)(C)2.A.(V) of this rule, the director will instruct the trustee or escrow agent to release to the owner/operator those funds as the director specifies in writing.

(VII) If the owner/operator does not properly implement the closure plan and does not comply with an order by the department to do so, the department will order the forfeiture of all or part of the trust fund or escrow account as specified in subparagraph (7)(C)1.C. of this rule.

(VIII) The director will agree to termination of the trust fund or escrow account when:

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(C) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(C) of this rule.

B. Financial guarantee bond. The requirement for a financial assurance instrument may be satisfied by securing a financial guarantee bond.

(I) The bond shall be executed by the owner/operator and a corporate surety licensed to do business in Missouri. The surety company issuing the bond, at a minimum, must be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury. Corporate surety companies that issue sureties in which the penal sums (face amounts) exceed the corporation's underwriting limitation must provide proof of coinsurance, reinsurance, or provide another method of assurance in accordance with Treasury Circular 297, Revised September 1, 1978, (31 CFR sections 223.10-11).

(II) The wording of the surety bond must be identical to the wording specified in form MO 780-1265.

(III) The owner/operator who uses a surety bond to satisfy the requirements of subsection (7)(C) of this rule must also establish a standby trust fund or escrow account. Under the terms of the bond, all payments made will be deposited by the surety directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account must meet the requirements specified in subparagraph (7)(C)2.A. of this rule except that:

(a) An original or an originally signed duplicate of the standby trust fund or escrow account agreement must be submitted to the department with the surety bond; and

(b) Unless the standby trust fund or escrow account is funded pursuant to the requirements of subparagraph (7)(C)2.B. of this rule, the following are not required by these rules:

I. Payments into the trust fund or escrow account;

II. Annual valuations as required by the trust fund or escrow account agreement; and

III. Notices of nonpayment as required by the trust fund or escrow account agreement.

(IV) The bond must guarantee that the owner/operator will:

(a) Fund the standby trust fund or escrow account in an amount equal to the penal sum of the bond before the beginning of final closure of the scrap tire site;

(b) Fund the standby trust fund or escrow

account in an amount equal to the penal sum within thirty (30) days after an order to begin closure is issued by the department; or

(c) Provide alternate financial assurance as specified in subsection (7)(C) of this rule; and within ninety (90) days after receipt, by both the owner/operator and the department, of a cancellation notice of the bond from the surety, obtain the director's written approval of the provided assurance.

(V) Under the terms of the bond, the surety will become liable on the bond obligation when the owner/operator fails to perform as guaranteed by the bond.

(VI) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the director, as evidenced by the return receipts.

(VII) The owner/operator may cancel the bond if the director has given prior written consent based on receipt of evidence of alternate financial assurance as specified in subsection (7)(C) of this rule.

C. Performance bond. The requirement for a financial assurance instrument may be satisfied by securing a performance bond guaranteeing performance of closure.

(I) The bond shall be executed by the owner/operator and a corporate surety licensed to do business in Missouri. The surety company issuing the bond, at a minimum, must be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury. Corporate surety companies that issue sureties in which the penal sums (face amounts) exceed the corporation's underwriting limitation must provide proof of coinsurance, reinsurance, or provide another method of assurance in accordance with Treasury Circular 297, Revised September 1, 1978, (31 CFR sections 223.10-11).

(II) The wording of the surety bond must be identical to the wording specified in form MO 780-1266.

(III) The owner/operator who uses a surety bond to satisfy the requirements of subsection (7)(C) of this rule must also establish a standby trust fund or escrow account. Under the terms of the bond, all payments made will be deposited by the surety directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account must meet the requirements specified in subparagraph (7)(C)2.A. of this rule, except that:

(a) An original or an originally signed duplicate of the standby trust fund or escrow account agreement must be submitted to the department with the surety bond; and

(b) Unless the standby trust fund or escrow account is funded pursuant to the requirements of subparagraph (7)(C)2.C. of this rule, the following are not required by these rules:

I. Payments into the trust fund or escrow account as specified;

II. Annual valuations as required by the trust fund or escrow account agreement; and

III. Notices of nonpayment as required by the trust fund or escrow account agreement.

(IV) The bond must guarantee that the owner/operator will:

(a) Perform final closure in accordance with the closure plan and other requirements of the scrap tire processing facility permit whenever required to do so; or

(b) Provide alternate financial assurance as spec-

ified in subsection (7)(C) of this rule and obtain the director's written approval of the provided assurance, within ninety (90) days after receipt by both the owner/operator and the department of a notice of cancellation of the bond from the surety.

(V) Under the terms of the bond, the surety will become liable on the bond obligation when the owner/operator fails to perform as guaranteed by the bond. Following a determination that the owner/operator has failed to perform final closure in accordance with the closure plan, under the terms of the bond the surety will perform final closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund or escrow account.

(VI) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the department, as evidenced by the return receipts.

(VII) The owner/operator may cancel the bond if the director has given prior written consent. The director will provide written consent when:

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(C) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(C) of this rule.

(VIII) The surety will not be liable for deficiencies in the performance of closure by the owner/operator after the director releases the owner/operator from the requirements of subsection (7)(C) of this rule.

D. Letter of credit. The requirement for a financial assurance instrument may be satisfied by obtaining an irrevocable standby letter of credit.

(I) The letter of credit shall be issued by a state- or federally-chartered and regulated bank or trust association. If the issuing institution is not located in Missouri, a bank or trust association located in Missouri must confirm the letter of credit and the confirmation shall be filed with the department along with the letter of credit.

(II) The wording of the letter of credit must be identical to the wording specified in form MO 780-1267.

(III) An owner/operator who uses a letter of credit to satisfy the requirements of subsection (7)(C) of this rule must also establish a standby trust fund or escrow account. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account must meet the requirements of the trust fund or escrow account specified in subparagraph (7)(C)2.A. of this rule, except that:

(a) An original or an originally signed duplicate of the standby trust fund or escrow account agreement must be submitted to the department with the letter of credit; and

(b) Unless the standby trust fund or escrow account is funded pursuant to the requirements of subparagraph (7)(C)2.D. of this rule, the following are not required by these rules:

I. Payments into the trust fund or escrow account as specified;

II. Annual valuations as required by the trust fund or escrow account agreement; and

III. Notices of nonpayment as required by the trust fund or escrow account agreement.

(IV) The letter of credit must be accompanied by a letter from the owner/operator referring to the letter of credit

by number, the issuing institution and date and providing the following information: the scrap tire processing facility permit number, name and address of the scrap tire processing facility and the amount of funds assured for closure of the scrap tire processing facility by the letter of credit.

(V) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner/operator and the department by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty (120) days will begin on the date when both the owner/operator and the department have received the notice, as evidenced by the return receipts.

(VI) If the owner/operator does not establish alternate financial assurance as specified in subsection (7)(C) of this rule and obtain written approval of this alternate assurance from the director within ninety (90) days after receipt by both the owner/operator and the department of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the director will draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last thirty (30) days of this extension, the director will draw on the letter of credit if the owner/operator has failed to provide alternate financial assurance as specified in subsection (7)(C) of this rule and obtain written approval of that assurance from the director.

(VII) Following a determination that the owner/operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, the director may draw on the letter of credit.

(VIII) The director will return the letter of credit to the issuing institution for termination when:

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(C) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(C) of this rule.

**E. Insurance.** The requirement for a financial assurance instrument may be satisfied by obtaining insurance. The insurance policy shall be irrevocable and without provisions to transfer, loan/borrow, withdraw, make premium payments from or otherwise extract or encumber funds from the face amount or cash surrender value of the policy, except upon written approval by the director or his/her designee.

(I) The insurer, at a minimum, shall be licensed to transact the business of insurance, or be eligible to provide insurance as an admitted or an excess or surplus lines insurer, in one (1) or more states, and authorized to transact business in Missouri by law and by the Missouri Department of Insurance, Financial Institutions and Professional Registration.

(II) The wording of the certificate of insurance must be identical to the wording specified in form MO 780-1268.

(III) The insurance policy must be issued for a face amount at least equal to the amount specified in paragraph (7)(B)1. of this rule. The term face amount means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(IV) The insurance policy must guarantee that funds will be available to close the scrap tire processing facility whenever final closure occurs. The policy must also guaran-

tee that once the final closure begins, the insurer, upon the direction of the director, will be responsible for paying out funds, up to an amount equal to the face amount of the policy, to that party(ies) as the director specifies. Release of the funds will be authorized by the director according to paragraph (7)(C)1. of this rule.

(V) The owner/operator must maintain the policy in full force and effect until the director consents to termination of the policy by the owner/operator as specified in part (7)(C)2.E.(VIII) of this rule. Failure to pay the premium, without substitution of alternate financial assurance as specified in subsection (7)(C) of this rule, will constitute a significant violation of these rules, warranting such remedy as the director deems necessary. The violation will be deemed to begin upon receipt by the department of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(VI) Each policy shall contain provisions:

(a) Allowing assignment of the policy to a successor owner/operator. The assignment may be conditional upon consent of the insurer, provided the consent is not unreasonably refused;

(b) Providing that policy issued on a claims-made basis shall provide retroactive coverage from the date of issuance of said policy covering the facility and shall contain an extended claims reporting period of at least twelve (12) months; and

(c) Designating the Director, Missouri Department of Natural Resources as the irrevocable primary beneficiary without collateral assignment(s).

(VII) The policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy, at a minimum, must provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate or fail to renew the policy by sending notice by certified mail to the owner/operator and the department. Cancellation, termination or failure to renew may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by both the director and the owner/operator, as evidenced by the return receipts. Cancellation, termination or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(a) The director deems the tire site abandoned;

(b) The permit is terminated or revoked or a new permit is denied;

(c) Closure is ordered by the director or a United States district court or other court of competent jurisdiction;

(d) The owner/operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code; or

(e) The premium due is paid.

(VIII) The director will give written consent to the owner/operator that s/he may terminate the insurance policy when:

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(C) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(C) of this rule.

**F. Financial test and corporate guarantee.** The requirements for a financial assurance instrument may be satisfied by passing a financial test. A corporate guarantee submitted by the parent corporation of the owner/operator as specified

in part (7)(C)2.F.(X) of this rule may also be used to satisfy the requirements for a financial assurance instrument.

(I) To pass the financial test the owner/operator must meet the criteria of either subpart (7)(C)2.F.(I)(a) or (b) of this rule.

(a) The owner/operator must have:

I. Two (2) of the following three (3) ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

II. Tangible net worth at least 2.0 times the sum of the current closure cost estimates covered by the test; and

III. Assets in the United States amounting to at least ninety percent (90%) of his/her total assets or at least 2.0 times the sum of the current closure cost estimates covered by the test.

(b) The owner/operator must have:

I. A current rating for his/her most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;

II. Tangible net worth at least 2.0 times the sum of the current closure cost estimates covered by the test; and

III. Assets located in the United States amounting to at least ninety percent (90%) of his/her total assets or at least 2.0 times the sum of the current closure cost estimates covered by the test.

(II) The phrase current closure cost estimates as used in part (7)(C)2.F.(I) of this rule refers to the cost estimates required to be shown in paragraphs 1.-4. of the letter from the owner/operator's chief financial officer form MO 780-1269.

(III) To demonstrate that s/he meets this test, the owner/operator must submit the following items to the department:

(a) A letter signed by the owner/operator's chief financial officer and worded as specified in form MO 780-1269;

(b) A copy of the independent certified public accountant's report on examination of the owner/operator's financial statements for the latest completed fiscal year based on generally accepted accounting principles; and

(c) A special report from the owner/operator's independent certified public accountant to the owner/operator stating that:

I. S/he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in those financial statements; and

II. The regulatory requirement that the certified public accountant provide assurance must be consistent with current professional auditing standards.

(IV) After the initial submission of items specified in part (7)(C)2.F.(III) of this rule, the owner/operator must send updated information to the department within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in part (7)(C)2.F.(III) of this rule.

(V) If the owner/operator no longer meets the requirements of part (7)(C)2.F.(I) of this rule, s/he must send notice to the department of intent to establish alternate financial assurance. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner/operator no longer meets the requirements. The

owner/operator must provide the alternate financial assurance within one hundred twenty (120) days after the end of the fiscal year.

(VI) The director, based on a reasonable belief that the owner/operator may no longer meet the requirements of part (7)(C)2.F.(I) of this rule, may require reports of financial condition at any time from the owner/operator in addition to those specified in part (7)(C)2.F.(I) of this rule. If the director finds, on the basis of the reports or other information, that the owner/operator no longer meets the requirements of part (7)(C)2.F.(I) of this rule, the owner/operator must provide alternative financial assurance as specified in subsection (7)(C) of this rule within thirty (30) days after notification of such a finding.

(VII) The department may require and evaluate additional information which relates to financial status, including present or potential environmental liabilities and may deny the use of the financial test based upon the evaluation or the failure of an applicant to provide such additional information requested by the department within thirty (30) days from the date of that request. Pending approval of the use of the test by the director or pending appeal before any court of competent jurisdiction of the department's denial of the use of the test, the owner/operator shall comply with the financial assurance requirements through the use of an alternate financial assurance mechanism as described in subsection (7)(C) of this rule. The burden of proof shall be on the applicant in the event of any appeal of a denial. If the department rules that the firm's financial test is unacceptable, the firm shall have thirty (30) days from the date of notification of such a decision to provide alternative financial assurances.

(VIII) The department may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the report on examination of the owner/operator's financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The department will evaluate other qualifications on an individual basis. The owner/operator must provide alternate financial assurance as specified in subsection (7)(C) of this rule within thirty (30) days after notification of the disallowance.

(IX) The owner/operator is no longer required to submit the items specified in part (7)(C)2.F.(III) of this rule when:

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(C) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(C) of this rule.

(X) An owner/operator may meet the requirements of subsection (7)(C) of this rule by obtaining a written guarantee, referred to in this rule as corporate guarantee. The guarantor must be the parent corporation of the owner/operator. The guarantor must meet the requirements for owner/operators in parts (7)(C)2.F.(I)-(VIII) of this rule and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in form MO 780-1270. The corporate guarantee must accompany the items sent to the department as specified in part (7)(C)2.F.(III) of this rule. The terms of the corporate guarantee must provide that:

(a) If the owner/operator fails to perform final closure of a scrap tire processing facility covered by the corporate guarantee in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in subparagraph (7)(C)2.A. of this rule in the name of the owner/operator;

(b) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the department, as evidenced by the return receipts; and

(c) If the owner/operator fails to provide alternate financial assurance as specified in subsection (7)(C) of this rule and obtain the written approval of the alternate assurance from the director within ninety (90) days after receipt by both the owner/operator and the department of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide the alternative financial assurance in the name of the owner/operator.

G. Contract of obligation. Municipalities or counties may satisfy the requirements for a financial assurance instrument by entering into a contract of obligation for the full amount of the approved closure cost estimates. The wording of the contract of obligation shall be identical to the wording specified in form MO 780-1263.

(I) The contract of obligation shall be a binding agreement on the municipality or county, allowing the department to collect the required amount from any funds being disbursed or to be disbursed by Missouri to the municipality or county. A municipality or county that uses the contract of obligation every five (5) years shall submit a letter to the department from the governing body reaffirming the amount of their financial obligation. The wording of the contract of obligation shall be identical to the wording specified in the Contract of Obligation form.

(II) Resolution and/or Ordinance. The Contract of Obligation shall be submitted to the department by the owner/operator with an attached Resolution or Ordinance specifying the name of the Signatory Agent having the designated authority to sign the Contract of Obligation. The Resolution or Ordinance shall contain wording similar to the wording specified in the Resolution/Ordinance form.

(III) Local Government Financial Test. The Contract of Obligation shall be submitted to the department every five (5) years by the owner/operator with an attached, accurate and complete Local Government Financial Test. The Local Government Financial Test shall contain:

(a) A letter signed by the owner/operator's chief financial officer using wording identical to the wording specified in the Local Government Financial Test form;

(b) A copy of an independent certified public accountant's report on examination of the owner/operator's financial statements for the latest completed fiscal year; and

(c) A special report from an independent certified public accountant to the owner/operator stating that—

I. S/he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in the financial statements;

II. S/he should report an appropriate description of the findings using a summary of findings in accordance with the requirements of the American Institute of Certified Public Accountants Statement on Auditing Standards #75; and

III. The special report procedure was performed in accordance with generally accepted accounting principles (GAAP).

(IV) The owner/operator shall include a copy of the most recent comprehensive annual financial report (CAFR) disclosing, for public notice, all of the estimated scrap tire processing facility closure financial obligations. The report

shall include:

(a) The nature and source of the closure requirements;

(b) The costs recognized to date;

(c) The costs remaining to be incurred.

(V) Definitions. The financial terms used in this rule shall be consistent with generally accepted accounting principles (GAAP).

(VI) Qualifications.

(a) Local governments will not be qualified to utilize Contracts of Obligation and Local Government Financial Tests if they have been determined to:

I. Be an enterprise fund, solid waste management district or organization other than a county or incorporated city, town or village, as classified in Article VI, Section 15, of the Constitution of Missouri. Two (2) or more qualified local governments may join in common to submit combined mechanisms;

II. Currently be in default on any outstanding general obligation bonds;

III. Have any outstanding general obligation bonds having a Standard and Poor's rating less than BBB or a Moody's rating less than Baa;

IV. Have operated at a deficit exceeding five percent (5%) of the total annual revenues in each of the past two (2) years, except as allowed in Article VI, Sections 26(a) through 26(g), of the Constitution of Missouri;

V. Have a relative size threshold in excess of forty-three percent (43%) of the local government's total annual revenues. This rule allows the annual guaranteed environmental financial assurances to sub-total up to forty-three percent (43%) of the total annual revenues with additional secured financial assurance mechanism(s) being demonstrated for the remaining balance;

VI. Have an adverse opinion or a disclaimer of opinion from an independent certified public accountant as reported under subparagraphs (7)(C)2.G.(III)(b) and (7)(C)2.G.(III)(c) of this rule; and

VII. Fail the ratio test criteria of subparagraph (7)(C)2.G.(VI)(b)I. of this rule.

(b) An owner/operator qualified under subparagraph (7)(C)2.G.(VI) of this rule shall pass the local government financial test by meeting the criteria of either parts (7)(C)2.G.(VI)(b)I., Alternative I, or (7)(C)2.G.(VI)(b)II., Alternative II, of this rule as follows:

I. Alternative I. The owner/operator shall have a liquidity ratio greater than or equal to 0.050 and a debt service ratio less than or equal to 0.20; or

II. Alternative II. The owner/operator shall have a current rating for all outstanding general obligation bonds of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's. Ratings from agencies other than Standard and Poor's or Moody's and ratings on expired bonds, refunding bonds, revenue bonds, insured bonds or structured financing (guaranteed or collateralized) are not acceptable.

(VII) Effective dates.

(a) All applicants and/or owners/operators of active scrap tire processing facilities, choosing to use a Contract of Obligation to guarantee scrap tire processing facility financial assurance, shall submit a Local Government Financial Test and a Comprehensive Annual Financial Report, using the most recent fiscal financial statements, with each Contract of Obligation and Resolution/Ordinance submitted on or after April 9, 1998. After initial approval, each owner/operator shall every five (5) years submit an updated Contract of Obligation and Resolution/Ordinance, Local Government Financial Test and Comprehensive Annual

Financial Report within one hundred eighty (180) days following the end of their fiscal year.

(b) All owners/operators of officially closed facilities, having properly executed Contracts of Obligation that were approved prior to April 9, 1998, are not required to submit a Local Government Financial Test nor a Comprehensive Annual Financial Report as long as they are in compliance with 10 CSR 80-2.030 at the time of closure. The cost estimates of the Contracts of Obligation for officially closed facilities may be every five (5) years adjusted for inflation, as specified in subsection (7)(C)1.A. of this rule, by using a cover letter amendment to the contract signed by the designated signatory agent.

H. Use of multiple financial assurance instruments. An owner/operator may satisfy the requirements of subsection (7)(C) of this rule for financial assurance instruments by establishing more than one (1) financial instrument per scrap tire processing facility for closure. These instruments are limited to trust funds, escrow accounts, financial guarantee bonds, and letters of credit. The instrument must be as specified in paragraph (7)(C)2. of this rule except that it is the combination of instruments, rather than the single instrument which must provide financial assurance for an amount at least equal to an amount based upon the current costs of similar cleanups using data from actual scrap tire cleanup project bids received by the department to remediate scrap tire sites of similar size. If an owner/operator uses a trust fund or escrow account in combination with a surety bond or a letter of credit, s/he may use the trust fund or escrow account as the standby trust fund or escrow account for the other instruments. A single standby trust fund or escrow account may be established for two (2) or more instruments. The director may use any or all of the instruments to provide for closure of the scrap tire site.

I. Filing, increasing and decreasing financial assurance instruments. When increases in the financial assurance instrument are no longer being made and the estimated closure cost increases, the amount of the financial assurance instrument shall be adjusted to cover the increase in the cost estimate. The owner/operator shall increase the amount of the financial assurance instrument within sixty (60) days of the increase in the estimate and submit written evidence of the increase to the director or obtain other financial assurance as specified in subsection (7)(B) of this rule to cover the increase. If the current cost of closure decreases and the owner/operator has received written approval from the director of a decrease, the owner/operator may decrease the amount of the closure financial assurance instrument.

J. Release of financial assurance instruments. The department will inspect a permitted scrap tire processing facility when notified by the owner/operator that the closure plan has been implemented. If the inspection reveals that the approved closure plan has been properly effected, the director shall authorize the release or proportional release of, the financial assurance instrument submitted for closure and interest, if any.

K. Forfeiture of financial assurance instruments. If the owner/operator fails to properly implement the closure plan, the director will give written notice of the violation and order the owner/operator to implement the closure plan. If closure as approved by the director has not commenced within a specified and reasonable time, the director will order forfeiture of all or that part of the owner/operator's financial assurance instrument necessary to implement closure. Any owner/operator aggrieved by a forfeiture order may appeal as provided in section 260.235, RSMo.]

AUTHORITY: sections 260.225[, RSMo 2000] and 260.270, RSMo

[Supp. 2006] 2016. Original rule filed April 16, 1997, effective Dec. 30, 1997. Amended: Filed Jan. 2, 2007, effective Sept. 30, 2007. Amended: Filed June 7, 2018.

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

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

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176. To be considered, comments will be received until August 28, 2018. A public hearing date is scheduled for 1:00 pm August 21, 2018, at the LaCharrette Conference Room, 1101 Riverside Drive, Jefferson City, Missouri.

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 90—State Parks Chapter 2—State Parks Administration

### PROPOSED AMENDMENT

**10 CSR 90-2.010 Definitions.** The department is amending sections (1) and (2) and deleting section (4).

**PURPOSE:** This amendment clarifies existing definitions, removes unnecessary definitions, and adds needed definitions tied to the Americans with Disabilities Act.

(1) General Definitions.

**(C) Concessionaire is any suitable person, persons, corporation, or association to which the director has awarded by contract the right to construct, establish, and operate public services, privileges, conveniences, and facilities on any land, site, or object under the Department's control as provided in section 253.080, RSMo.**

**[(C)](D) Director[, as used in these rules, shall refer to] is the director of the Division of State Parks.**

**[(D)](E) Division[, as used in these rules, shall refer to] is the Division of State Parks.**

**[(E)](F) Facility manager.** The person directing the overall management, safety and operation of a state park or historic site. Normally, that person's title will be park superintendent or historic site administrator, but other persons may be assigned in the absence of such personnel.

**[(F)](G) Nonprofit group is any group that has been incorporated [(not-for-profit)] as a nonprofit corporation pursuant to Chapter 355, RSMo in the state of Missouri.**

**[(G)](H) Off-road vehicle (ORV) area is a designated area where ATVs and motorcycles may be operated off of park roads and thoroughfares.**

**[(H)](I) Park rangers.** Peace officers assigned to manage the law enforcement needs of state parks and historic sites, who are appointed under authority of section 253.065, RSMo, to enforce laws and provide law enforcement services on all lands and waters under the control of the Department of Natural Resources and all roadways within said boundaries.

**[(I)](J) Park staff is any person employed either full or part time by the Division of State Parks or any person volunteering services under the supervision of full-time park employees, but not prison laborers or court-appointed laborers. In areas of state parks or historic sites that are under the control of a concessionaire, the concessionaire or his/her employees are also considered park staff for the**

enforcement of these rules.

*[(J)](K)* Person/. *The word "person" wherever used in these rules shall be construed to mean* is any person (including a minor), partnership, joint-stock company, corporation, unincorporated association or society or municipal, or other corporation of any character whatsoever.

*[(K)](L)* Persons with a disability. *[Those people]* **An individual with a disability**, as defined in the Americans with Disabilities Act, **42 USCA Section 12102**.

*[(L)](M)* Special management regulations are special rules enacted at one **(1)** or more **state parks** or **state historic sites** designed to improve management, protect resources, or assist with *[our] the division's mission [for providing a safe, pleasant, recreational experience] to provide outstanding recreational opportunities*. Such rules may apply to campgrounds, picnic areas, shelter houses, and other recreational/management zones/. *Special management regulations shall be,* and are posted in the *[park/site] state park or state historic site* area where they apply.

*[(M)](N)* Trails are recognizable routes intentionally developed and designated for certain modes of travel and are signed indicating their appropriate use.

*[(N)](O)* Vehicles (Non-Licensed).

1. All terrain vehicle (ATV) is a motorized vehicle having a maximum width of 50 inches and a maximum weight of 600 pounds designed to be operated off-road, with handlebar steering and a seat that is straddled by the operator. An ATV may be equipped with two **(2)**, three **(3)**, or more tires. This definition includes motorcycles designed for off-road operation.

2. Electrically-assisted pedal-powered vehicle/. *Any of the above/* is a self-propelled vehicles containing an electric motor designed to assist or supplement pedaling, *[and]* which *[shall]* does not exceed a speed of 20 miles per hour.

3. **Other Power-Driven Mobility Device (OPDMD)** is any mobility device powered by batteries, fuel, or other engines - whether or not designed primarily for use by individuals with mobility disabilities - that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electric personal assisted mobile devices, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair, off-road vehicle, ATV, or motor vehicle.

*[3.]4.* Pedal-powered vehicle. A vehicle consisting of a tubular metal frame mounted on one **(1)**, two **(2)**, or three **(3)** wire-spoked wheels equipped with handlebars and a saddlelike seat, and propelled by foot pedals, more commonly known as a unicycle, bicycle, or tricycle.

*[4.* Powered-mobility vehicle. *An electrically powered vehicle or device designed to accommodate or transport persons with disabilities, which includes wheelchairs and scooters, but does not include electric golf carts or utility vehicles.]*

5. Vehicle is any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by persons with disabilities.

6. Wheelchair is a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or outdoor locomotion.

(2) Camping Definitions.

(C) Camping day is any portion of a **twenty-four-** (24-) hour period beginning at 3:00 p.m. that a *[camper occupied]* person can occupy a campsite. Campers arriving prior to 3:00 a.m. shall be required to pay the camping fee for the prior day as well as the current day.

*[(J)]* Travel camp refers to organized travel camping groups.

*Campsites for use by such groups are administered through special management regulations.]*

*[(K)](J)* Youth camp area. A youth camp area is usually an area with minimal development designed specifically for use by scouts and other nonprofit youth organizations.

*[(4)]* Jacob L. Babler Organized Group Center Definitions.

*(A) Center in the following text always refers to the Jacob L. Babler Organized Group Center located in Dr. Edmund A. Babler Memorial State Park, Wildwood, Missouri. The primary mission of the center is to serve disabled or inclusionary groups.*

*(B) Center administrator. This person is the special organized group center administrator as set forth by the Missouri state merit system. The center administrator is the employee responsible for the operation of the center.]*

*AUTHORITY: section 253.035, RSMo [2000] 2016. This version filed Dec. 31, 1975, effective Jan. 10, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed June 7, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Division of State Parks, attn: Angie Even, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received by August 28, 2018. A public hearing is scheduled for 1:00 pm on August 21, 2018, at Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri 65101.*

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 90—State Parks Chapter 2—State Parks Administration

### PROPOSED AMENDMENT

**10 CSR 90-2.020 Park Management.** The department is amending sections (1), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), and (18) and deleting section (3).

*PURPOSE: This amendment removes statutory duplications, adds mobility device provisions in accordance with the Americans with Disabilities Act, and clarifies existing requirements.*

(1) Animals. No person shall **within a state park or state historic site** molest, harm, frighten, kill, trap, hunt, chase, capture, shoot, or throw missiles at any animal; *[nor shall any person]* remove or have in their possession the young of any animal; *[nor shall any person]* collect, remove, have in their possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen, alive or dead, any animal; nor *[shall any person, agency, or organization]* purposefully release any animal that was obtained outside state park boundaries within any state park or historic site without written permission from the director. Animals may be collected or used for scientific purposes *[only by holders of a current Scientific Research Permit that was issued according to division policy: Scientific Research Permit Process]* with **written permission from the director**. Exceptions include: animals used for interpretive or educational purposes under the guidance of division

employees in accordance with that policy; insects, ticks, chiggers causing or about to cause harm to any person; and the taking of animals as provided for by holders of a fishing license under the applicable provisions of the Wildlife Code and as otherwise posted.

*[(3)](3) Fireworks. Possessing, exploding, discharging or burning within, or bringing into any state park or historic site firecrackers, torpedoes, rockets or other fireworks or explosives of flammable material or any other substance, compound, mixture or article that in conjunction with other substances or compounds would be explosive or flammable or discharging or throwing fireworks or other explosive or flammable materials into the park area from lands adjacent thereto is prohibited without written permission from the director.]*

*[(4)](3) Public Speeches, Gatherings, Performances, etc. Organized activities are permitted providing the person(s) or representatives of the requested activity meet minimum management and operational criteria of the respective state park or historic site. Such activities include, but are not limited to: any political party, social club or society, office aspirant, religious sect, circus or theatrical group, or other public exhibition, debate, drill or parade, musicians, weddings, public speeches, and performance of any act or ceremony. Such activities require the written permission of the facility manager. Procedures for requesting permission, defining the scope and nature of the activity, limits and restrictions, and approval/disapproval notification are specified in the division's policy manual.*

*[(5)](4) Contributions. No person shall solicit contributions for any purpose, whether public or private, in any state park or historic site without the written consent of the director or designee.*

*[(6)](5) Vending, Peddling, etc. No person shall sell or offer for sale, hire, lease, or let out any other thing or engage in any business or erect any building, booth, tent, stall or any other structure whatsoever whether temporary or permanent within any state park or historic site, without written permission from the director. Exception is made to any regularly licensed concessionaire acting by and under authority and regulation of the Department of Natural Resources and providing food, goods, and services for the benefit of the public. Any licensed concessionaire may waive, in writing, their exclusive privilege to provide food, goods, and services.*

*[(7)](6) Signs.*

(A) Official Signs. Any sign, posted by park staff necessary for the safety of visitors or maintenance of the facility, in any state park or historic site which requires or prohibits certain conduct of persons or vehicles shall be obeyed.

(B) Other Signs. No sign, notice, or advertisement of any nature shall be erected **in any state park or state historic site** without permission from the facility manager or designee.

*[(8)](7) Broadcasts. No musical instrument, radio, tape recording, television, or sound track shall be operated or any noise made for the purpose of attracting attention to any person, political party, religious institution, or meetings or assemblies thereof, or for the purpose of demonstrating, advertising, or calling attention to any article or service for sale or hire within a state park or historic site, without proper authorization.*

*[(9)](8) Disorderly Conduct. No person shall disobey a reasonable order of a facility manager, ranger, caretaker, or other authorized park staff; commit a nuisance, use abusive language, or unreasonably disturb or annoy others within a state park or historic site. An example of an unreasonable disturbance or annoyance is the operation of any music making or noise-making device at a volume determined by authorized personnel to be excessive.*

*[(10)](9) Refuse and Trash. No person shall deposit **any garbage or waste** in any part of any state park or **state** historic site *[any garbage, sewage, refuse, waste, fruit, vegetables, food-stuffs, boxes, cans, jars, paper, or other litter, waste materials or obnoxious materials,]* except in containers or places designated for these purposes. Any material so disposed of shall have been generated at that state park or **state** historic site *[and shall not have been brought into the area only for disposal. The facility manager shall have the authority to establish a disposal fee, by written policy, for sewage disposal at approved locations and by approved methods. The fee shall be waived for campers using the facilities campground]* **unless the director approves the location to receive sewage disposal from other state park or state historic site locations.***

*[(11)](10) Pollution of Waters. No person shall:*

(A) *[t]*Throw, discharge, or otherwise place or cause to be placed in the waters of any pool, fountain, pond, lake, stream *[or other body of water in or adjacent to any state park or historic site, or any tributary, stream]*, storm sewer or drain flowing into the waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of waters. **No person shall;** or

(B) *[d]*Dump or deposit any bottles, broken glass, ashes, papers, boxes, cans, waste, garbage, or other trash in any waters in or contiguous to any state park or state historic site.

*[(12)](11) Pets and Animals at Large.*

(A) No person shall allow any domestic or other animal under his/her control or ownership to range within any state park or historic site unless restrained by a leash not longer than ten (10) feet held by a person capable of restraining a pet or firmly affixed to some stationary object so as to prevent the animal from ranging at large. Controlling an animal by using an electric collar does not meet the requirements of this rule or state law. Except for *[dogs]* **service animals** assisting persons with disabilities **as defined in the Americans with Disabilities Act**, no domestic household or other animal shall be allowed inside any state park or historic site building under the control of either the division or a concessionaire licensed by the Department of Natural Resources unless permission is granted by the director. Park staff are authorized to capture and take any animals running at large to a local veterinarian, animal shelter, or animal impound. If the owner can be identified, the owner is responsible for all necessary fees involving the capture and impounding of the animal.

(B) Park staff, and specifically when possible park rangers, shall investigate all animal bites or attacks and recommend a classification of the incident and a determination concerning each reported animal bite or attack.

1. The investigating staff member shall determine if the bite/attack was accidental or non-accidental. If non-accidental, the animal *[shall]* **will** be determined to be dangerous or vicious. No animal is considered dangerous or vicious if the approach, injury, or damage was sustained by a person who was tormenting, abusing, or assaulting the animal; or was committing or attempting to commit a crime or intentional tort which would warrant immediate defense of person or property.

2. All animals involved in bites or attacks are subject to immediate impoundment by the investigating park *[personnel]* **staff**. Park staff or peace officers are authorized to use lethal force to apprehend animals involved in a bite or attack. *[Such lethal force shall be in compliance with such agency's policies and procedures.]*

3. Owners of animals are subject to fines, penalties, and any necessary capture, disease tests, impound, quarantine fees, and medical bills incurred by park staff for the animal's removal. Owners are required to report bites or attacks to park *[personnel]* **staff**.

*[(13)](12) Traffic.*

*[(A)]* All applicable provisions of state laws and rules regulating the equipment and operation of motor vehicles on

Missouri highways will be strictly enforced in the parks and historic sites. Motorized self-propelled vehicles or equipment may be operated only on park roads and thoroughfares unless otherwise permitted by park staff. No person shall drive a vehicle in a Missouri state park or historic site in excess of 20 miles per hour, unless otherwise posted. Powered-mobility vehicles used to transport persons with disabilities are permitted on park/site trails, boardwalks, and other accesses where suitably designed.

(B) Those sections in Chapter 300, RSMo, as may hereafter be amended, not inconsistent with sections 253.150 to 253.170, RSMo are hereby adopted by reference for Missouri state parks and historic sites. The penalties for violations of these sections are described in 253.170, RSMo.]

(A) OPDMs may be used by persons with disabilities in all areas open to pedestrian use unless any of the following apply:

1. The type (gas or electric), size (width, height, length), weight, dimensions (tire size, ground clearance), and/or speed precludes its safe and/or non-hazardous operation;
2. Environmental conditions (volume of pedestrians, design, indoor operations characteristics, square footage, stationary barriers) preclude its safe and/or non-hazardous operation;
3. Operation of the device can reasonably be expected to damage the environmental, natural, or cultural resources;
4. The device is precluded by other operational restrictions;
5. Operation of the device conflicts with federal laws or regulations;
6. The state park or state historic site is unable to store the device, if requested;
7. Usage would violate 10 CSR 90-2.020, 10 CSR 90-2.030, 10 CSR 90-2.040, or any other state or federal law; or
8. The individual is operating the OPDM in an unsafe or disruptive manner.

[[14]](13) Park Rangers, Appointment, Powers as Peace Officers. Park Rangers and commissioned facility managers, employed as peace officers by the division under the authority of 253.065, RSMo, are empowered to enforce the provisions of 10 CSR 90-2.010 through 10 CSR 90-2.060 and all applicable state laws.

[[15]](14) Parking.

(A) Parking areas are designed and developed within state parks and state historic sites specifically for the use of state park and state historic site visitors only; and shall accommodate only] and those vehicles driven or chartered by state park or state historic site visitors. Open containers of intoxicating liquor and/or non-intoxicating beer are prohibited in parking areas [or] and other areas as designated by the division director.

(B) The division hereby establishes parking spaces for persons with disabilities, marked as indicated in section 304.143, RSMo, when their vehicles display a license or placard as defined in section 301.071 or 301.142, RSMo. [Said spaces shall be marked as indicated in 301.143, RSMo.] Misuse of these spaces [are] is a violation of state law and [are] is punishable under state law.

[[16]](15) Enforcement. It is the responsibility of the facility manager, park ranger, and all other park staff as assigned to administer, enforce, and encourage compliance with all the provisions of 10 CSR 90-2.010 through 10 CSR 90-2.060, all other rules, division policies, and state statutes as they apply to state parks in general.

[[17]](16) Discharging Weapons. The discharging of any device which propels an object, including, but not limited to, rifles, pistols, shotguns, BB guns, paintball guns, bow and arrows, sling shots, or any devices which use burning powder, explosives, compressed gases is prohibited, except in areas designated by the director. This does not apply to acts of self-defense or to peace officers or park staff acting in the line of duty.

[[18]](17) Cabins and Other Lodgings. The division or a concessionaire may administer policies governing the use and rental of cabins and other lodgings designed to improve management, protect the resources, or assist with [our] the division's mission for providing [a safe, pleasant,] outstanding recreational [experience] opportunities based on the needs of a facility. [There shall be m]Minimum rules for all cabins and other lodging [which shall include] including, but not limited to, check-in and checkout times, prohibitions against disorderly conduct, and hours to maintain quiet. Such rules] shall be approved by the director and posted in each rental unit.

AUTHORITY: section 253.035, RSMo [2000] 2016. Original rule filed May 17, 1954, effective May 27, 1954. For intervening history, please consult the Code of State Regulations. Amended: Filed June 7, 2018.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Division of State Parks, attn: Angie Even, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received by August 28, 2018. A public hearing is scheduled for 1:00 pm on August 21, 2018, at Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri 65101.

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 90—State Parks Chapter 2—State Parks Administration

### PROPOSED AMENDMENT

**10 CSR 90-2.030 Camping and Recreational Activities.** The department is amending sections (1), (2), (5), (8), (9), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (25), (26), (27), (28), and (29) and deleting sections (11) and (24).

PURPOSE: This amendment removes requirements duplicated in other state laws and regulations, and reorganizes existing requirements for clarity.

(1) Any violation of the general rules, regulations, division policies, and state statutes occurring in a campground in any state park or state historic site [shall also be] is also a violation of [our] division campground management rules.

(2) Camping Fee. [A separate camping fee shall be charged for each camping day a designated campsite, overflow or other camping area is occupied. The fee is charged on the basis of available utilities, whether used or not.] Methods of [collection] collecting the camping fee (site to site, office, fee booth, etc.) for each campground [shall] will be posted as public information. Camping permits, once issued and paid for, are nontransferable.

(5) Campsite Availability. Campsites are available on a "first-come first-served" basis except those which have been reserved under the formal reservation system or as provided for under other regulations. A campsite is considered unavailable and occupied when it has posted a valid camping permit and contains substantial personal property (i.e., dining fly, trailer, tent, licensed vehicle), or a valid camping

permit and an official marker/sign as provided specifically by the state park or historic site. The valid camping permit *[shall]* take priority as evidence and first right of occupancy for the standard camping day in the event the campsite is inadvertently occupied by anyone other than the original holder of the camping permit.

(6) Quiet Hours. Campground quiet hours are between 10:00 p.m. and 6:00 a.m. All non-campers *[must]* **are required to** leave the campground by 10:00 p.m. This regulation prohibits any excessive or disruptive noises that are defined as noise emanating from radios, stereo systems, televisions, electric generators, loud conversations, etc., which can be heard by other persons not on the same campsite or same general area. The use of excessive or disruptive noises applies elsewhere and is not permitted between the hours of 6:00 a.m. and 10:00 p.m. also, unless otherwise allowed by the facility manager.

(8) Unattended Property. Campers shall not be allowed to leave personal property unattended on a campsite for more than 24 hours without written permission from the facility manager or *[his/her]* designee. *Such permission shall be given only in* for special circumstances such as medical emergencies or equipment failure.

(9) Holding or Reserving a Campsite.

(A) In addition to a camper's own campsite, one **(1)** additional campsite may be held for another camper anticipated to arrive later that same day, *[providing]* **so long as** substantial personal property is placed on the campsite. *[T]* the fee for the additional campsite *[must be]* **has been paid and the permit posted at the campsite.**

*[[11] Bug Lights. The use of electronic insect killing devices is prohibited.]*

*[[12]](11) Campsites Designated for Persons with Disabilities.* A campsite designed for persons with disabilities may be sold to campers without disabilities when all of the particular types (basic, electric, sewer/electric) of campsite have been sold. A camper without disabilities may occupy the campsite for persons with disabilities for the duration of his/her camping stay on a day-by-day basis if a similar campsite is not available. Should a camper with disabilities arrive prior to 6:00 p.m., the camper without disabilities shall be required to move to a similar campsite if available.

*[[13]](12) Overflow Camping.* Overflow camping areas to accommodate special circumstances may be established by the facility manager with the approval of the district office. The duration of use and location of overflow camping areas will be determined by the facility management to provide limited overnight campsites within the capabilities of the facility and its resources.

*[[14]](13) Special Use Camp Areas.*

(A) Special use camp areas are assigned on a "first-come first-served" basis or may be reserved by phone or mail.

*[[B)] Camping fees shall be determined by the director.]*

*[[15]](14) Equestrian Camping.*

(A) Equestrian campers must camp in designated equestrian camping areas, **and comply with all health and safety laws and regulations.**

(B) Animals are the responsibility of their owners *[and must comply with all health and safety laws and regulations].*

*[[16]](15) Camping [A]along [T]trails[.] is permitted as follows:*

(A) *[Camping shall be permitted only] [a]Along certain designated bicycle, equestrian and backpacking trails[.]*

(B) *[Trail campers shall register] By registering before using the trail[.]*; **and**

(C) *[Trail camping shall be restricted to] In* appointed areas

along the trail unless otherwise posted. *When allowed in other than appointed areas, all camping shall take place], then at least one hundred (100) feet from the designated trail, and at least two hundred (200) feet from any public use area facilities.*

*[[17]](16) General Camping Rules.*

*[[A)] No sewage or treated water, commonly referred to as "grey water," shall be discharged from tents, campers or recreational vehicles except at designated locations.*

*[[B)] Fires shall be attended to at all times and restricted to fire pits, barbecue grills, where provided, or at locations approved by the facility manager. Fires may be prohibited throughout the park by special order of the facility manager when fire conditions warrant.*

*[[C)] Lanterns shall not be hung on trees or shrubs.*

*[[D)] Trenching around tent camps for protection against water or wind damage shall not be permitted.*

*[[E)] At Finger Lakes State Park intoxicating liquor and/or non-intoxicating beer may be possessed only in designated camping areas and only by persons who have paid the appropriate camping fee.]*

**(A) The following are prohibited:**

**1. Discharging of sewage or treated water, commonly referred to as "grey water," from tents, campers, or recreational vehicles, except at designated locations;**

**2. Fires outside of the fire pits, barbecue grills (where provided), and other locations approved by the facility manager;**

**3. Leaving a fire unattended;**

**4. Hanging of lanterns on trees or shrubs;**

**5. Trenching around tent camps for protection against water or wind damage; and**

**6. Using electronic insect killing devices.**

**(B) Hammocks may be used with two-inch (2") wide nylon straps when tying off to a tree. Use may be prohibited depending on the campsite logistics.**

**(C) Fires may be prohibited throughout the state park or state historic site by special order of the facility manager when fire conditions warrant.**

*[[18]](17) Swimming.*

*[[A)] No person shall [swim, bathe or otherwise enter any waters owned by, leased to, or under the control of the division, including designated swimming areas, unless otherwise posted or as directed by the facility manager or designee. Special warnings and restrictions may apply.]—*

*[[B)] No person shall dress or undress on any beach, state building, or other place in any state park area, except in bath houses, personal camping units, or structures provided and maintained for that purpose. Swimmers and bathers shall be dressed at all times in proper attire that conforms to commonly accepted social standards.*

*[[C)] No person shall throw, cast, lay or deposit any glass, crockery, or any part thereof, or any metallic substance in any swimming area in any state park or historic site.*

*[[D)] No person, dogs or pets shall wash or be washed with or without soap or other cleansers in swimming areas or any waters under the control of the director. Dogs and pets are not allowed in designated swimming beaches, or as otherwise posted.]*

**1. Swim, bathe, or otherwise enter any waters owned by, leased to, or under the control of the division that is marked as non-swimming or restricted, or as instructed by the facility manager or designee;**

**2. Dress or undress on any beach, in any state building, or other place in a state park or state historic site area, except in bath houses, personal camping units, or structures provided and maintained for that purpose;**

**3. Throw, cast, lay, or deposit any glass, crockery, or any**

part thereof, or any metallic substance in any swimming area in any state park or state historic site;

4. Bring a dog or pet into a designated swimming beach or area as otherwise posted, except for service dogs assisting a person with a disability;

5. Wash their body, dogs, or pets with or without soap or other cleansers in swimming areas or any waters under the control of the director; or

6. Possess intoxicating liquor and/or non-intoxicating beer in any designated swimming area or adjacent parking lots, or other areas as posted.

(B) Swimmers and bathers shall be dressed at all times in proper attire that conforms to commonly accepted social standards.

[(E)](C) Swimming beaches and pools may be closed to the public and bathing therein be prohibited at any time when, in the opinion of the facility manager or concessionaire, bathing is dangerous or otherwise inadvisable.

[(F)] Possession of intoxicating liquor and/or non-intoxicating beer is prohibited in any designated swimming area or adjacent parking lots, or other areas as posted.

(G) Every person shall comply with posted rules at designated swim areas.]

[(H)](D) Fishing and boating are permitted only outside designated swim areas.

[(19)](18) Picnic Areas and Use. Areas are designated for picnicking to include such amenities as parking, picnic tables, fire grills, and restrooms. Picnicking is permitted in any state park or historic site in areas set apart and designated for that purpose. [No fires are permitted except in personal campstoves or grills provided by the park or site for outdoor cooking.] Picnicking is not permitted in designated campgrounds[, except with permission of the facility manager or designee].

(A) Use of grills, tables, and benches generally follows the rule of first-come first-served, but no person or group shall use any picnic area, shelter, or facility to the exclusion of other persons for an unreasonable time if facilities are crowded, [except as allowed by 10 CSR 90-2.030(28). Determination of what is unreasonable shall be at the discretion of] as determined by the facility manager.

(B) [To maintain cleanliness and reduce fire hazard, each picnic party shall see that its fire is completely extinguished before the area is vacated, unless it is to be used by others and that all trash, such as boxes, cans, papers, bottles, garbage and other refuse is placed in receptacles provided for that purpose.] Fires are permitted only in personal campstoves, or grills provided by the state park or state historic site for outdoor cooking. Each picnicking party is responsible for ensuring their fire is completely extinguished before leaving the area, unless it is to be used by others.

(C) Each picnicking party is responsible for ensuring that all trash, such as boxes, cans, papers, bottles, garbage, and other refuse is placed in receptacles provided for that purpose, or is carried out as otherwise required at posted locations.

[(20)](19) Horses, donkeys, and mules are permitted only in designated areas within state parks and state historic sites and are not permitted in non-equestrian camping areas, picnic areas, or other public use areas. Horses, donkeys, and mules shall have a rider on them or [they shall] be tied in a designated area. Horses, donkeys, and mules shall not be ridden on foot trails, through streams, off designated trails, or tied to trees without the permission of the facility manager. In those facilities that require a rider's permit or that seasonally close riding trails or areas, it is the responsibility of the rider to obtain the proper permit.

(A) Equestrian owners or riders must show proof of current negative Coggins test (equine infectious anemia) upon request by appro-

priate park personnel and can be denied access to the facilities if such proof cannot be provided.

(B) In those undeveloped areas where horseback riding is permitted at random, horses, donkeys, and mules shall be properly restrained, ridden with due care, and shall not be permitted to graze unattended.

[(21)](20) Hunting. [Rules relating to hunting in Missouri state parks and historic sites are governed by Chapter 252 and 253.200, RSMo and the Wildlife Code of Missouri, as hereafter amended. Hunting, trapping or the pursuit of wildlife is forbidden at all times in all parks and historic sites. Spotlighting wildlife by flashlight, floodlight, or vehicle headlights is prohibited unless under the guidance of a park employee.] No individual shall use or discharge weapons of any type in any state park or historic site, without written permission of the director with the following exception:

(A) Hunting shall be permitted in designated areas of Missouri's state parks only during periods of special hunts, which shall be sponsored jointly by the Department of Natural Resources' Division of State Parks and the Department of Conservation to control or prevent animal overpopulation or to control or prevent problems related to overpopulation such as damage to natural resources, property damage, or public health hazards. Due to the changing locations of these hunts and conditions for hunting, the policies governing them shall be developed and announced jointly by the division and the Missouri Department of Conservation prior to the designated hunts.

[(22)](21) Fishing. [Fishing shall be permitted in waters of state parks and historic sites under applicable provisions of the Missouri Wildlife Code.]

(A) [All state fishing laws and boating laws shall be obeyed; c]Commercial fishing or the buying or selling of fish caught in park waters is forbidden.

(B) Fishing may be prohibited in certain areas as designated by the director and upon the proper posting of these areas.

[(C)] In addition to applicable provisions of the Missouri Wildlife Code, the director may establish special fishing regulations for waters owned or under the jurisdiction of the Department of Natural Resources.]

[(23)](22) Boating. Unless otherwise prohibited boating is allowed in state park waters in accordance with state and federal rules and regulations. State park waters fall under the jurisdiction of various state and federal agencies. The Missouri Water Patrol, Missouri Coast Guard, U.S. Army Corps of Engineers, and/or Missouri Department of Conservation promulgates the regulations pertaining to boating. Specific regulations regarding boating generally are posted at points of access.

[(A)] Boating of any kind in a designated swim area shall be prohibited except for official boating as is necessary to keep the areas properly protected and policed.

(B) No watercraft shall be launched into or removed from any park waters, tied to trees or land objects, except at places that are designated for this use. No privately owned boat or watercraft of any kind shall be left by its owner in park waters (waters totally owned by the Department of Natural Resources) in excess of 24 hours without written permission of the facility manager or designee.

(C) No person other than a concessionaire or employee of the division shall be permitted to rent, hire, or operate for charge any kind of boat or watercraft, whether powered or not, on any park waters.]

(A) The following actions are prohibited:

1. Launching or removing watercraft from any park waters (waters totally owned by the Department of Natural Resources) or tying to trees or land objects, except at places designated for this use;

2. Leaving a privately-owned boat or watercraft of any kind in park waters in excess of twenty-four (24) hours without written permission of the facility manager or designee; and

3. Renting, hiring, or operating for charge any kind of boat or watercraft, whether powered or not, on any state park or state historic site waters without written permission from the director.

[(D)](B) The director may establish limits for the horsepower of outboard motors that may be operated in park waters; limits are posted at each respective location.

[(E)](C) On waters managed under agreement with the Department of Conservation, special regulations specified in 3 CSR 10-4.116 also apply and may be enforced by park staff.

[(F) Those sections in Chapter 306, RSMo, as may hereafter be amended, not inconsistent with this code are hereby adopted by reference for Missouri state parks and historic sites and may be enforced by park staff.

(24) State Park and Historic Site Concessions.

(A) Cabins and Other Lodgings. The normal operating season, days, and times for state park cabins, motels, and other lodgings shall be established by the director when the division operates as the concessionaire or by contract between the department and a facility's concessionaire.

(B) Reservations. Requests for lodging reservations shall be made with the park concessionaire. Reservations shall be confirmed upon payment of a deposit in the amount of the first night's lodging. The lodging policy for concessions operating motels, cabins, duplexes, suites, or any type of lodging, meeting, conference space, shall be reviewed by the division director or his/her representative for approval on an annual basis at the same time price changes are reviewed.

(C) Cabins, motels, and other lodgings shall not be guaranteed for occupancy before 3:00 p.m. and check-out time is 11:00 a.m.

(D) Dining Lodges. The normal operating season for state park dining lodges is established by the director when the division operates as the concessionaire or by contract between the department and a facility's concessionaire.

(E) Marinas. The normal operating days and seasons for state park marinas are established by the director when the division operates as the concessionaire or by contract between the department and a facility's concessionaire.

(F) Swimming Pools and Beaches. The normal operating days and seasons for state park swimming pools and beaches are established by the director when the division operates as the concessionaire or by contract between the department and a facility's concessionaire. Swimming pools and beaches may be closed due to hazardous conditions or in the event of inclement weather.

(G) Other concessions shall be open as approved by the director.

(H) Concessionaires shall provide the director with an annual pricing review, comparing concession prices with those of direct competitors for equivalent goods and services, i.e., for lodging, watercraft slips and rentals, etc.]

[(25)](23) Shelter Houses. Open shelters and/or enclosed shelters may be provided in the day use areas of Missouri's state parks and state historic sites. [These shelters may be reserved for guarantee of use by contacting the facility manager of the park or historic site concerned. Requests for reservations shall be accompanied by a cashier's check, money order, personal check, cash, or credit card equal in amount to the fee for use of the facility. Reservations canceled less than seven days prior to the day of the reservation will cause forfeiture of the reservation fee.]

[(A) The open shelters, when not reserved, shall be available for free use on a first-come first-served basis.

(B) Fees for the guarantee of use of the open and enclosed shelters shall be established by the division and posted within the park or historic site.

(C) Open and enclosed shelters must be vacated by 10:00 p.m. daily or earlier if the shelter is located in an area that closes before 10:00 p.m.

(D) An individual from the reserving group of an enclosed shelter shall contact the park or historic site personnel to arrange that the building is unlocked prior to the agreed upon time of use and locked after the use of the building.]

(A) Open and enclosed shelters may be reserved in advance through the respective park staff or contracted concessionaire, with full payment being made.

(B) Shelter rental fees are established by the division director and posted for public reference.

(C) Reservations cancelled less than seven (7) days prior to the day of reserved use causes forfeiture of the shelter fee.

(D) When reserving an enclosed shelter, an individual from the reserving group must contact the respective facility manager or designee to arrange for the building to be unlocked prior to the agreed upon time of use and locked at the end of use.

(E) Shelters must be vacated by 10 p.m. daily, or earlier if the shelter is located in an area that closes before 10 p.m.

(F) When not reserved, open shelters are available for first-come, first-served use at no cost. Enclosed shelters are available by reservation only.

[(26)](24) Historic Structures. Fees charged for entrance to historic sites, their associated structures, museums or features [shall] may be established by the director of the Department of Natural Resources and [shall be] posted at the historic sites alongside the hours of operations. [The following rules shall apply to all state historic sites or buildings:]

[(A) Smoking is not permitted in any state historic building, structure or museum except in areas so designated for the public or upon permission of the facility manager or director; and]

[(B)](A) Consumption or introduction of foods or drinks in any state historic building is prohibited unless in areas so designated for the public or upon permission of the facility manager or the director.

[(27)](25) Off-Road Vehicle (ORV) Areas.

(A) ORV areas are located in Finger Lakes and St. Joe state parks.

(B) [Only] ATVs and motorcycles may be operated in ORV areas, except that. [t/The operation of other vehicles may be permitted with the proper authorization. Other motorized vehicles are specifically prohibited on wooded trails at St. Joe State Park, except for maintenance and rescue operations. ATVs and motorcycles are prohibited on the beaches, beach access trails, and paved roads.

(C) Passengers are not permitted on ATVs or motorcycles. Where permitted by the manufacturer, other motorized vehicles may carry as many passengers as there are seat positions provided that all passengers [are seatbelted] wear seatbelts.

(D) Operators of ATVs and motorcycles, and operators and passengers of other motorized vehicles without fully enclosed metal cabs, must wear protective helmets that meet United States Department of Transportation or ANSI Z90.1 certification. [Operators and passengers of other motorized vehicles without fully enclosed metal cabs must also wear such protective helmets.]

(E) Motorized vehicles, except motorcycles, must be equipped with a flexible mast, minimum of 72 inches in length, with a day-glow orange or yellow flag measuring at least 72 square inches displayed at the top of the mast.

(F) All ATVs and motorcycles must be equipped with a spark arrester, functioning brakes, and muffler designed so that the noise level does not exceed 86 dbA.

(G) Before entering the [off-road vehicle (ORV)] area, each

off-road vehicle may be inspected by park staff for compliance with the safety equipment requirements.

(H) The speed limit within the staging area or the entrance road to the ORV area shall be five (5) miles per hour, **with the speed limit in the designated buffer area between the staging area and the ORV riding area set at twenty (20) miles per hour.** No exhibition driving will be allowed within these areas. *[The speed limit in the designated buffer area between the staging area and the ORV riding area shall be 20 miles per hour.]*

(I) Operators under sixteen (16) years of age and/or unlicensed operators must have direct supervision of a licensed adult while operating a motorcycle or ATV. *[Persons under 12 years of age may not operate three-wheeled ATVs.]*

(J) Use of or being under the influence of alcohol or drugs while operating an ATV or motorcycle is prohibited. **Open or closed containers of intoxicating liquor and/or non-intoxicating beer are prohibited in ORV areas, staging areas, entrance roads, and other areas designated for ORV operation.**

*[(K) Persons under 16 years of age should not operate any ATV that the manufacturer recommends be operated only by an adult.]*

*[(L)](K) Access to the lakes in the ORV area at St. Joe State Park shall be provided to persons for the purpose of fishing only. Vehicle access requires a pass to be obtained from park staff. The pass, which may be revoked for unauthorized conduct.*

*[(M)] Open or closed containers of intoxicating liquor and/or non-intoxicating beer are prohibited in ORV areas, staging areas, entrance roads, and other areas designated for ORV operation.]*

*[(N)](L) [At St. Joe and Finger Lakes state parks, a]A use permit will be required for each ORV operated in the ORV area. The director shall establish the types of permits and the permit fee.*

*[(O)](M) ATVs and motorcycles shall be unloaded and loaded only on designated locations within the ORV areas. [ATVs and motorcycles are prohibited on the beaches, beach access trails and paved roads.]*

*[(P)](N) Areas within the ORV area may be posted as closed to vehicle traffic for emergencies or due to other management practices.*

*[(28)](26) Use of Pedal-Powered or [Electric-Assisted] Electrically Assisted Pedal-Powered Vehicles. To facilitate accessibility to the public, the use of pedal-powered and electrically assisted pedal-powered vehicles is permitted on all trails designated for bicycle use. [Powered-mobility vehicles are permitted on all trails designated for pedestrians. Permitted use does not infer that trails meet standards in accordance with the Americans With Disabilities Act unless they are so designated. Pedacycles or other vehicles which use gasoline or other hydrocarbon fuels are specifically prohibited from operation on such trails, unless being used by park staff or emergency response personnel for maintenance or public safety concerns.]*

*[(29)](27) Other Recreational Activities.*

(A) State parks and historic sites provide opportunities for our visitors to engage in varied recreational activities. However, the division maintains the right to prohibit or otherwise restrict recreational activities that are not in keeping with the mission and objectives of the Department of Natural Resources, that may damage property, that require special safety measures, or that conflict with other uses of an area. Such prohibitions or restrictions shall be determined by the director, who may establish policy or procedures to regulate conduct.

(B) Specific recreational activities that are restricted by policy include using metal detectors, caving, rock climbing and rappelling, diving, and conducting special events and activities.

(C) Additional recreational activities may be restricted by policies established after the effective date of this provision and/or by signage.

*AUTHORITY: section 253.035, RSMo [2000] 2016. This version of rule filed Dec. 31, 1975, effective Jan. 10, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed June 7, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Division of State Parks, attn: Angie Even, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received by August 28, 2018. A public hearing is scheduled for 1:00 pm on August 21, 2018, at Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri 65101.*

## Title 10—DEPARTMENT OF NATURAL RESOURCES Division 90—State Parks Chapter 2—State Parks Administration

### PROPOSED AMENDMENT

**10 CSR 90-2.040 Park Property.** The department is amending sections (1), (4), (5), (6), and (8) and deleting section (7).

*PURPOSE: This amendment removes requirements more appropriately addressed in internal policies, and reorganizes existing requirements for clarity.*

(1) Buildings, Signs, and Other Property. No person shall in any manner willfully mark, deface, or injure in any way, or displace, remove or tamper with any state park or historic site buildings, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, park signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers or other structures, equipment or facilities, without written permission from the director. *[Requests for removal of buildings and structures shall follow procedures as outlined in the division's policy regarding care and treatment of cultural resources.]*

(4) Trees, Shrubbery, Lawns, etc. *[No person shall cut, carve or injure the bark, or break off limbs or branches or mutilate in any way, or pick the flowers of any plant species within any state park or historic site. Persons may collect for personal consumption within the state park or historic site small quantities of wild edible fruit, berries, seeds, and nuts (excluding below-ground plant parts) in quantities not to exceed a one-gallon container. Any such edible fruit, etc. so collected shall not be transported outside the state park or historic site. Every person is permitted to collect by hand edible mushrooms for personal consumption outside the state park or historic site providing that the quantity collected does not exceed that which fills a two-gallon container. No person shall dig in or otherwise disturb or destroy grass areas, or lawns, pile debris or material of any kind on park grounds or attach any rope, wire or other contrivance thereto. No person shall plant or remove any vegetation and/or propa-gules (seeds, roots, etc.), or collect or remove flowers or other plant parts without the written permission from the director.]*

**(A) No person shall:**

1. Cut, carve, or injure the bark, or break off limbs or branches or mutilate in any way, or pick the flowers of any plant species within any state park or state historic site;

2. Dig in or otherwise disturb or destroy grass areas, or lawns, pile debris or material of any kind on state park or state historic site grounds or attach any rope, wire, or other contrivance thereto; or

3. Plant or remove any vegetation and/or proagules (seeds, roots, etc.), or collect or remove flowers or other plant parts without written permission from the director.

(B) Persons may collect wild edible fruit, berries, seeds, and nuts (excluding below-ground plant parts) in a quantity not to exceed a one (1) gallon container for personal consumption within a state park or state historic site.

(C) For personal consumption outside a state park or state historic site, persons may collect edible mushrooms by hand in a quantity not to exceed a two (2) gallon container.

(5) Caves. Any person desiring to enter a natural cave in any state park or state historic site shall comply with the requirements posted at the cave entrance. If no sign is posted at the cave entrance, then the facility manager or designee must be contacted to determine access requirements. This same person shall check out with the facility manager or his/her representative prior to leaving the park. **Overnight camping is not permitted in caves or mines.** The following conditions will be met for those caves in which a permit is issued. *Failure to comply shall be cause for revocation of the permit.* or the permit will be revoked:

(A) *[Any person]* If under eighteen (18) years of age *[shall]*, have the signature of *[his/her]* a parent or guardian or be in the company of *[his/her]* a parent or guardian.];

(B) *[All persons will b/Be]* familiar with *[the state park]* division rules and *[shall]* agree not to litter, remove, injure, disfigure, deface, or destroy any living organism, object, or portion of the cave.];

(C) *[Each person shall h/Have]* three (3) individual sources of light.]; **per person;**

(D) *[Each person shall w/Wear]* a hard hat.];

(E) *[Each person shall c/Carry]* plastic bags for **each person** for removal of trash and solid human waste and *[to keep]* spent carbide *[in.];* and

(F) *[Each group shall c/Carry]* one (1) first-aid kit **per group** in the cave with them.

*[(G) Overnight camping is not permitted in caves or mines.]*

(6) Limited Access Areas. Certain areas within state parks and state historic sites possessing unusual natural significance and being vulnerable to damage resulting from public access shall be designated **and signed** as limited access areas by the director. *[Areas so designated shall be properly posted.]* Entrance to limited access areas shall require the permission of the facility manager.

*[(7) Natural Resource Management. The Division of State Parks is authorized to expend funds and allocate resources as appropriated for the purpose of managing natural resources on state parks and historic sites. These activities may include prescribed burns, removal or control of native and exotic plant species, tree thinning or removal; or other manipulations of native plants and wildlife deemed necessary to protect and sustain natural ecosystems. No such actions shall be engaged upon without the written permission from the director, either specifically for that project or as part of an approved management plan for a state park or historic site.]*

*[(8)](7) Bridge Load Limits. Certain bridges owned and maintained by the Department of Natural Resources will be posted with load*

limit and speed limit signs as required to ensure the safety of the motorists and to preserve the integrity of the bridge structures. These limits shall conform to recommendations resulting from engineering studies or Missouri Department of Transportation evaluations.

*AUTHORITY: section 253.035, RSMo [2000] 2016. Original rule filed May 17, 1954, effective May 27, 1954. For intervening history, please consult the Code of State Regulations. Amended: Filed June 7, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Division of State Parks, attn: Angie Even, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received by August 28, 2018. A public hearing is scheduled for 1:00 pm on August 21, 2018, at Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri 65101.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 90—State Parks  
Chapter 2—State Parks Administration**

**PROPOSED AMENDMENT**

**10 CSR 90-2.050 Organized Group Camps.** The department is amending sections (1), (2), (3), and (5).

*PURPOSE: This amendment clarifies requirements for constituents using the organized group camp facilities.*

(1) Application Procedure.

(B) Any group may apply to reserve a group camp by requesting an application from the **respective** facility manager *[of the park it wishes to visit or by contacting the Division of State Parks, PO Box 176, Jefferson City, MO 65102].*

(C) Applications for reservations may be taken up to eleven months in advance of the day of arrival *[and must be submitted by mail only]*. All applications for the next calendar year open season are due by October 16. Those groups applying after that date will be offered remaining dates. The reserving party must also indicate a second and third priority stay period. Rental priorities shall be given to nonprofit, youth organizations, and/or applications with the earliest postmark.

(2) Fees.

(A) A deposit fee shall be made payable to the Missouri Department of Natural Resources upon confirmation of the reservation. *[The director shall establish the deposit fee.]*

(3) Check-In and Checkout Procedures.

*[(A) Groups shall check into camp no later than 3:00 p.m. on the date of arrival stated on the letter of confirmation. Groups shall check out of the camp no later than 3:00 p.m. on the date of departure stated on the letter of confirmation. Groups arriving after the time indicated on the group camp confirmation letter may be charged an hourly rate for each hour they are late. Groups checking out of camp after the time indicated on the confirmation permit may be charged for an additional day. Group camp minimums and appropriate*

utility fees will be charged for late checkouts. Exceptions shall not be made without prior approval from the facility manager.

(B) At the time of check-in, the camp director shall have in their possession a copy of the confirmation permit and group camp policy manual.

(C) The camp director shall arrive at the park prior to the group. The camp director shall check in with the designated park representative at the park office. Together they shall make an inventory of the facilities. The inventory shall be signed by the camp director and kept in the park office. Campers shall not be permitted to move into the cabins until the inventory is completed.

(D) The camp director and park representative shall make an inventory of the camp after all campers have vacated the buildings. Any damages or shortages shall be checked against the inventory made at check-in. The rental group shall be charged for any damages or shortages occurring during their stay at camp.

(E) Charges for damages or shortages and the rental charges, less deposit, shall be paid at the time of departure. Checks shall be made payable to the Missouri Department of Natural Resources. Rental groups shall be charged for the amount of utilities used. Prior arrangements for delayed payment may be made with the facility manager, when approved by the district supervisor, not to exceed 30 days from time of departure.]

**(A) Check-In Procedures.**

1. Check-in must occur no later than 3 p.m. on the date of arrival, as stated in the letter of confirmation.

2. Groups arriving after 3 p.m. may be charged an hourly rate for each hour they are late.

3. The camp director must arrive at the park prior to the group, have in his/her possession a copy of the confirmation letter and group camp policy manual, and check in with designated park staff in the park office.

4. The camp director and park staff shall make an inventory of the facilities, to be signed by the camp director and kept in the park office. No one can move into the cabins until the inventory is completed.

**(B) Check-Out Procedures.**

1. Check-out must occur no later than 3 p.m. on the date of departure, as stated in the letter of confirmation.

2. Groups departing after 3 p.m. may be charged for an additional day. Group camp minimums and appropriate utility fees will be charged for late check-outs.

3. The camp director and park staff shall make an inventory of the facilities, to be checked against the inventory made at check-in, and any damages or shortages will be charged to the rental group.

4. Charges for damages, shortages, the amount of utilities used, and the rental charges - less the deposit - shall be paid at the time of departure.

**(5) General Policy.**

(A) The division shall close a camp and cancel a group's reservation at the time that use of the facilities is found to be detrimental to the health and safety of the campers. A camp [shall] may be closed at the discretion of the division director if the group's program is not in keeping with the mission and objectives of the Department of Natural Resources or the group refuses to abide by the rules established by the [D]division [of State Parks]. In these cases, all deposits shall be forfeited and all fees incurred to date shall be paid upon departure.

(B) User groups shall maintain the facilities assigned, including grounds, during their stay at camp and shall leave them clean. The camp director shall ensure they are clean and hazard free[. S/he shall], and report any facility in need of repair to the facility man-

ager.

(C) Representatives of the division shall inspect the kitchen as often as necessary[. Groups shall be required] to ensure groups meet the laws and regulations governing food services as set forth by the Missouri Department of Health. If the using group fails to comply with the standards set forth by the Department of Health, the division shall close that facility.

(E) Outdoor fires shall be permitted only by approval and as designated by the facility manager, and shall not be left unattended. No other fires shall be started except in fireplaces provided for that purpose. [No fires shall be left unattended.]

*AUTHORITY: section 253.035, RSMo [2000] 2016. This version filed Dec. 31, 1975, effective Jan. 10, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed June 7, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Division of State Parks, attn: Angie Even, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received by August 28, 2018. A public hearing is scheduled for 1:00 pm on August 21, 2018, at Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, Missouri 65101.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 90—State Parks  
Chapter 2—State Parks Administration**

**PROPOSED AMENDMENT**

**10 CSR 90-2.070 Fencing on Park-Owned Property.** The department is amending section (2).

*PURPOSE: This amendment removes a phone number no longer used for submission of requests.*

(2) The division may participate in fencing park and historic site boundaries for the purpose of preventing intrusion from livestock or commercial game in accordance with Chapter 272, RSMo. Fencing requests shall be submitted in writing and approved by the director or his/her designee. The division's procedures for participating in fencing of park and historic site boundaries for this purpose are as follows:

(A) All fencing requests shall be directed to the Missouri Department of Natural Resources, Division of State Parks, PO Box 176, Jefferson City, MO 65102[, (800) 334-6946].

*AUTHORITY: section 253.035, RSMo [2000] 2016. Original rule filed Oct. 26, 2000, effective June 30, 2001. Amended: Filed June 7, 2018.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Division of State Parks, attn: Angie Even, PO Box 176, Jefferson City, MO 65102. To be considered, comments must be received by August 28, 2018. A public hearing is scheduled for 1:00 pm on August 21, 2018, at Lewis and Clark State Office Building, 101 Riverside Drive, Jefferson City, Missouri 65101.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 70—Division of Alcohol and Tobacco Control  
Chapter 2—Rules and Regulations**

**PROPOSED AMENDMENT**

**11 CSR 70-2.140 All Licensees.** The division is amending sections (1)–(17).

*PURPOSE: To revise this section that establishes additional rules for the conduct of business in both retail and wholesale establishments regarding inspection, record keeping, storage, employment, sales, gambling, and consumption by minors, to reflect the elimination of Chapter 312, RSMo, regulating nonintoxicating beer. The division's name will be changed to Division of Alcohol and Tobacco Control in all applicable sections. Section (7) was removed as it is a duplicate of section 311.300, RSMo. Changes were made in section (11) allowing convicted felons to participate in direct retail sales as a result of legislation in 2009. Gambling regulations were redefined in section (10) to reflect recent case law decisions that have determined that the division has no authority to seize gambling devices. Section (16) is also removed as it is a duplication of statutes. Renumbering changes are made throughout.*

(1) Licensees at all times are responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee on the premises which is in violation of the Intoxicating Liquor **Control** Laws *[or the Nonintoxicating Beer Laws]* or the regulations of the supervisor of *[liquor]* **alcohol and tobacco** control.

(2) *[All licensees shall allow t]*The licensed premises and all portions of the buildings of the premises, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics, and all buildings used in connection with the operations carried on under the license and which are in *[their]* **the licensee's** possession or under *[their]* **its** control, and all places where *[they]* **the licensee** keeps or *[have]* **has** liquor stored, *[to]* **may** be inspected by the supervisor of *[liquor]* **alcohol and tobacco** control and *[their]* **his/her** agents. Licensees shall cooperate fully with the agents during the inspections.

(3) All licensees *[are required to]* **shall** keep complete and accurate records pertaining to their businesses. *[These]* **Such** records *[shall]* include a complete and accurate record of all purchases and of all sales of intoxicating liquor *[and nonintoxicating beer]* made by them. These records *[must]* **are to** include the names and addresses of all persons from whom the liquor is purchased, the dates, kinds and quantities of the purchases and the dates and amounts of payments on account. They also should include the daily gross returns from sales.

(A) All licensees *[shall]* **are to** keep all files, books, records, papers, state, county and city licenses, *[federal tax stamps]* and accounts and memoranda pertaining to the business conducted by them, on the licensed premises *[and they, upon request of]*. *[t]*The supervisor of *[liquor]* **alcohol and tobacco** control or his/her duly authorized agents and auditors, *[promptly shall allow an inspection and audit to be made by the supervisor or his/her*

*agents, of files, books, records, papers, state, county and city licenses, federal tax stamps, accounts and memoranda and shall permit copies to be made and taken of them]* **may inspect, audit, or copy such records at any time.**

(B) All records required to be kept by law or rule of the supervisor *[must]* **shall** be kept and preserved for a period of two (2) years from the date the record was made.

(4) No licensee *[shall]* **may** buy or accept any warehouse receipt unless the seller or donor of the receipt first *[shall]* acquires the written permission of the supervisor of *[liquor]* **alcohol and tobacco** control to sell or give away the receipt.

(5) No licensee *[shall]* **may** have consigned to him/her, receive or accept the delivery of, or keep in storage any intoxicating liquors *[or nonintoxicating beer]* upon any premises other than those described in his/her license without first having obtained the written permission of the supervisor of *[liquor]* **alcohol and tobacco** control.

(6) No wholesale or retail licensee *[shall]* **may** sell or possess any spirituous liquor in any package or container holding less than fifty (50) milliliters (1.7 ounces) or more than one (1) gallon. No wholesale or retail licensee *[shall]* **may** sell or possess any wine in any package or container holding less than one hundred (100) milliliters (3.4 ounces) or more than fifteen and one-half (15 1/2) gallons.

*[(7) Sale by Minor Prohibited—Exceptions. No person licensed by the supervisor of liquor control to sell intoxicating liquor or nonintoxicating beer in the original package shall employ any person under the age of twenty-one (21) years to sell or assist in the sale or dispensing of intoxicating liquor or nonintoxicating beer except that any business so licensed may employ persons at least eighteen (18) years of age to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment and sack for carrying out intoxicating liquor or nonintoxicating beer. Employees under the age of twenty-one (21) years may not deliver intoxicating liquor, nor take nonintoxicating beer away from the licensed premises. No person licensed by the supervisor of liquor control to sell intoxicating liquor, or nonintoxicating beer by the drink shall employ any person under the age of twenty-one (21) years to sell or assist in the sale or dispensing of intoxicating liquor, or nonintoxicating beer except that any business so licensed, persons eighteen (18) years of age or older, when acting in the capacity as a waiter or waitress, may accept payment for or serve intoxicating liquor, or nonintoxicating beer in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consist of food. Employees under twenty-one (21) years of age shall not mix or serve across the bar intoxicating beverages or nonintoxicating beer.]*

*[(8)](7)* Licensees who—

(A) Desire to employ persons under the age of twenty-one (21) as authorized by section *[(7)] shall make application]* **311.300 RSMo, may apply** to supervisor using forms provided for that purpose; and

(B) Employ persons under the age of twenty-one (21) years as authorized by section *[(7)]* **311.300 RSMo**, who do not have at least fifty percent (50%) of the gross sales consisting of nonalcoholic sales *[shall have an]* **may be permitted if an** employee twenty-one (21) years of age or older **is** on the licensed premises during all hours of operation.

*[(9)](8)* No person licensed by the supervisor of *[liquor]* **alcohol and tobacco** control *[shall use or permit to be used]* **may allow**

upon his/her licensed premises any self-service, coin-operated, mechanical devices, or automatic dispensers for the purpose of selling or dispensing intoxicating liquor [or nonintoxicating beer] except as pursuant to section 311.205, RSMo.

[(10)](9) [No licensee shall permit, upon or about his/her licensed premises, any gambling of any kind or character whatsoever in which the one who plays stands to win or lose money, trade checks, prizes, merchandise or any other consideration whatsoever. No licensee shall have any gambling devices upon his/her licensed premises where money, trade checks, prizes, merchandise or property or any other consideration whatsoever may be won or lost. Notwithstanding the previously mentioned, a]Any licensee may sponsor or allow promotional games [or contests of chance] to be conducted upon his/her licensed premises, provided that—

[(A)] For purposes of this section, the phrase something of value means any money or property, any token, object or article exchangeable for money or property or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest in them or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge;

[(B)] Money or something of value is not required to be given directly or indirectly for the privilege or opportunity of participating in games or contests or for receiving the award or prize from participation;]

[(C)](A) The consumption of [l]intoxicating liquor[, five percent (5%) beer or nonintoxicating beer is] should not be related to or an element of a promotional game or contest either directly or indirectly;

[(B)] Intoxicating liquor may not be a prize of a promotional game or contest either directly or indirectly;

[(D)](C) The conduct or playing of games [of bingo] on [licensed] premises [by organizations licensed] approved by the Missouri Gaming Commission to conduct [bingo] games in accordance with Chapter 313, RSMo, [shall] does not constitute gambling or gambling activities when the games are conducted in accordance with Chapter 313, RSMo, and the activity, by itself, [shall] does not constitute a violation of this regulation;

[(E)](D) The sale of state lottery tickets or shares on [licensed] premises licensed by the lottery commission to sell lottery tickets or shares to the public [shall] does not [be deemed to] constitute gambling or gambling devices when conducted in accordance with Chapter 313, RSMo and the activity, by itself, [shall] does not constitute a violation of this regulation; and

[(F)] Pari-mutual wagering on horses at licensed tracks licensed by the Missouri Horse Racing Commission shall not be deemed to constitute gambling or gambling devices when conducted in accordance with Chapter 313, RSMo and this activity on licensed premises, by itself, shall not constitute a violation of this regulation; and]

[(G)](E) The giving of door prizes or other gifts by lot or drawing after payment of a price by members or guests of a charitable organization which has obtained an exemption from payment of federal income taxes as provided in Section 501(C)(3) of the Internal Revenue Code of 1954, [shall] does not constitute gambling or gambling devices when conducted on licensed premises by the charitable organization [and that activity, by itself, shall not constitute a violation of this regulation].

[(11)](10) No licensee [shall] may employ on or about the licensed premises any person who has been convicted since the ratification of the twenty-first amendment of the Constitution of the United States of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor; [nor shall any licensee employ on or about the licensed premises] or any person who [shall have] has had a license revoked under Chapter 311 [or 312], RSMo, unless

five (5) years have passed since the revocation of the license.

[(A)] No retail licensee shall employ a prohibited felon to any position that involves the direct participation in retail sales of intoxicating liquor. The phrase "direct participation in retail sales" includes the duties of accepting payment, taking orders, delivering, mixing or assisting in the mixing or serving of intoxicating liquor in the capacity of, but not limited to, bar manager, bartender, waiter, waitress, cashier, and sales clerk.

[(B)] A "prohibited felon" is one who has been convicted of a crime under the laws of any state or the United States, where the possible penalty at the time of the offense exceeded one (1) year confinement and the crime involves homicide, assault involving a threat of death or serious injury or actual physical injury, assault upon a law enforcement officer, kidnapping or false imprisonment, any action that would constitute a sexual offense under Chapter 566, RSMo, prostitution, pornography, robbery, arson, stealing, burglary, forgery, counterfeiting, identity theft or false identification, bribery, unlawful use of a weapon, gambling, driving or boating while intoxicated, perjury, fake reports or declarations, the possession, purchase, sale or manufacture of drugs, tax fraud, mail fraud, food stamp fraud, or welfare fraud.

[(C)] Each retail licensee shall report the identify of any employee with a felony conviction to the supervisor of alcohol and tobacco control within ten (10) days of his/her employment and each retail licensee shall notify the supervisor of alcohol and tobacco control within ten (10) days of the employee leaving the licensee's employment, using forms provided by the division for that purpose.

[(D)] If the employee is hired in a position that involves the direct participation in retail sales and is a prohibited felon, the division shall notify the licensee that the employee may not serve in the position involving the direct participation in retail sales upon receipt of notice from the licensee. The licensee will either dismiss the employee or reassign the employee to a position not involving the direct participation in retail sales within ten (10) days of the date notice is received by licensee from the division by regular mail service.

[(E)] If the division determines that an employee involved in the direct participation of retail sales has a felony conviction not listed in subsection (11)(B), above, but believes that the felon's conviction should disqualify the employee from the direct participation in retail sales, the division will notify the licensee within ten (10) days. The licensee will either dismiss the employee, reassign the employee to a position not directly involving the retail sale of intoxicating liquor, or file a written appeal with the division within ten (10) days of receiving notice from the division by regular mail service.

[(F)] If a licensee, or any employee of the licensee acting through the licensee, wishes to appeal a determination by the division that the employee is disqualified from the direct participation in the retail sale of intoxicating liquor as set forth in subsection (11)(E), above, the appeal will be heard by the supervisor or his/her designee within thirty (30) days of the division receiving written notice of the appeal. At the appeal, the division will determine whether the employee's conviction is reasonably related to the competency of the employee to be involved in the direct participation of retail sales. A written determination will be sent to the licensee and employee, if an address is supplied by the employee, within ten (10) days of the appeal.]

[(12)](11) No licensee, his/her agent or employee [shall] may sell intoxicating liquor [or nonintoxicating beer] in any place other than that designated on the license or at any other time or in any

other manner except as authorized by the license.

[(13)](12) No licensee [shall], his/her agent or employee may permit anyone under the age of twenty-one (21) years of age to consume intoxicating liquor [or three and two-tenths percent (3.2%) nonintoxicating beer] upon or about his/her licensed premises.

[(14)](13) No licensee, his/her agent or employee [shall] may allow upon or about the licensed premises solicitation for the purposes of prostitution or other immoral activities by any person.

[(15)](14) No licensee, his/her agent or employee [shall] may possess, store, sell or offer for sale, give away or otherwise dispose of upon or about the licensed premises or permit any person upon or about the licensed premises to possess, store, sell or offer for sale, give away, or otherwise dispose of any controlled substance as defined in Chapter 195, RSMo.

[(16) Except as otherwise provided in any provision of Chapter 311 or 312 relating to Sunday licenses, no holder of a license to sell intoxicating liquor or nonintoxicating beer shall sell, give away or otherwise dispose of any nonintoxicating beer upon or about the licensed premises between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Further, no nonintoxicating beer may be sold, given away or otherwise disposed of, on premises used as a polling place, between the hours of 1:30 a.m. and 7:30 p.m. upon the day of any general or primary election day in this state.]

[(17)](15) No licensee, his/her agent or employee [shall] may mix or pour, or permit to be mixed or poured, any intoxicating liquor [or nonintoxicating beer] directly into any person's mouth upon or about the licensed premises.

*AUTHORITY:* section 311.660, RSMo [2000] 2016. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 5, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level in Jefferson City, MO 65101, or by facsimile at (573) 526-4540, or via email at Karen.dorton@dps.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 70—Division of Alcohol and Tobacco Control  
Chapter 2—Rules and Regulations**

**PROPOSED RESCISSION**

**11 CSR 70-2.200 Salesmen.** This rule defined a salesman, established procedures for obtaining permit, set out rules of conduct and provided penalties for failure to comply with those rules. The division is rescinding this regulation.

*PURPOSE:* This rule is being rescinded as the processing and paperwork to issue salesman permits is timely and costly, yet they are rarely if ever used by the division.

*AUTHORITY:* section 311.660, RSMo Supp. 1989. This version of rule filed Feb. 8, 1973, effective Feb. 18, 1973. Rescinded: Filed June 5, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level in Jefferson City, MO 65101, or by facsimile at (573) 526-4540, or via email at Karen.Dorton@dps.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 34—Homeless, Dependent and Neglected  
Children**

**PROPOSED RESCISSION**

**13 CSR 40-34.012 Rates for Foster Care.** This rule established criteria for reimbursement for foster care.

*PURPOSE:* This rule is being rescinded as the rates are outdated and subject to change periodically.

*AUTHORITY:* section 207.020, RSMo 1986. Original rule filed June 28, 1983, effective Nov. 11, 1983. Rescinded: Filed June 8, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 3—Conditions of Provider Participation,  
Reimbursement and Procedure of General Applicability**

**PROPOSED RESCISSION**

**13 CSR 70-3.190 Telehealth Services.** This rule established coverage of the Telehealth spoke site facility fee and defined services considered appropriate for this form of interactive technology from a hub site to a participant spoke site.

*PURPOSE:* This rule is being rescinded because it has been found to be too restrictive and overly burdensome on providers.

*AUTHORITY:* section 208.201, RSMo Supp. 2008. Original rule filed Jan. 2, 2008, effective Aug. 30, 2008. Amended: Filed Feb. 17, 2009, effective Aug. 30, 2009. Rescinded: Filed June 8, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 4—Conditions of Participant Participation,  
Rights and Responsibilities**

**PROPOSED RESCISSION**

**13 CSR 70-4.070 Title XIX Recipient Lock-In Program.** This rule established the regulatory basis for implementation of a method to limit or restrict the use of the recipient's Medicaid identification card to designated providers of medical services.

*PURPOSE:* This rule is being rescinded as the MO HealthNet Division (MHD) no longer administers this program.

*AUTHORITY:* section 208.201, RSMo 2000. This rule was previously filed as 13 CSR 40-81.200. Emergency rule filed July 13, 1981, effective Aug. 1, 1981, expired Oct. 10, 1981. Original rule filed July 13, 1981, effective Oct. 11, 1981. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 8, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 20—Pharmacy Program**

**PROPOSED RESCISSION**

**13 CSR 70-20.032 List of Excludable Drugs Excluded From Coverage Under the MO HealthNet Pharmacy Program.** This

rule established a listing of excludable drugs or categories for which reimbursement is not available through the MO HealthNet Pharmacy Program.

*PURPOSE:* This rule is being rescinded as this information is duplicated in 13 CSR 70-20.031.

*AUTHORITY:* sections 208.153 and 208.201, RSMo Supp. 2013. Original rule filed Dec. 13, 1991, effective Aug. 6, 1992. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 8, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 20—Pharmacy Program**

**PROPOSED RESCISSION**

**13 CSR 70-20.040 Five Prescription Limit Per Month Per Recipient.** This rule imposed a limitation on the number of prescriptions which may be covered services within a specified time period for each recipient.

*PURPOSE:* This rule is being rescinded as there is no longer a prescription limit.

*AUTHORITY:* sections 208.153, RSMo Supp. 1991 and 208.201, RSMo Supp. 1987. This rule was previously filed as 13 CSR 40-81.012. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed June 8, 2018.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 30—Animal Health  
Chapter 10—Food Safety and Meat Inspection**

**ORDER OF RULEMAKING**

By the authority vested in the director of agriculture under section 265.020, RSMo 2016, the director amends a rule as follows:

**2 CSR 30-10.010 Inspection of Meat and Poultry is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2018 (43 MoReg 386). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 90—Weights, Measures and Consumer  
Protection  
Chapter 30—Petroleum Inspection**

**ORDER OF RULEMAKING**

By the authority vested in the Weights, Measures and Consumer Protection Division under section 414.142, RSMo 2016, the director amends a rule as follows:

**2 CSR 90-30.040 Quality Standards for Motor Fuels is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2018 (43 MoReg 667-668). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Weights, Measures and Consumer Protection Division Director received three (3) comments on the proposed amendment.

COMMENT #1: Ryan Rowden, with Missouri Petroleum Council, supported the proposed amendment to extend the effective date until ASTM incorporates changes to the vapor pressure maximums for ethanol blended fuels.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #2: Marla Benyshek, with Phillips 66, supported the elimination of references made to outdated ASTM fuel quality standards stating these references have caused confusion in the past. Ms. Benyshek strongly supported removal of the September 16, 2018, sunset date for the vapor pressure allowance in ethanol blended fuels.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #3: Kyle Kirby, with Missouri Corn Growers Association, supported the updates made to ASTM specifications by adopting the most current version as these specifications are under constant review and are continually being updated. Mr. Kirby supported the removal of sub-octane gasoline and regular leaded gasoline from the rule. Mr. Kirby suggested the removal of the section that grants a one (1) pound vapor pressure allowance for ethanol blends containing nine percent (9%) to ten percent (10%) ethanol as this is duplicative to U.S. EPA's summer time vapor pressure allowance.

RESPONSE: The duplicative language that Mr. Kirby was referring to will be considered in future rulemaking. No changes have been made to the rule as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under sections 226.020, 226.150, 226.900-226.910, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation's (MoDOT's or department's) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC adopts a rule as follows:

**7 CSR 10-8.005 Scope of Rules is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 15, 2018 (43 MoReg 252-253). No changes have been made in the proposed rule,

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

**SUMMARY OF COMMENTS:** MHTC received six (6) comments on the proposed rule.

**COMMENT #1:** Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one (1) indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

**RESPONSE:** No changes have been made to the rule as a result of this comment.

**COMMENT #2:** Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

**RESPONSE:** No changes have been made to the rule as a result of this comment.

**COMMENT #3:** Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

**RESPONSE:** No changes have been made to the rule as a result of this comment.

**COMMENT #4:** Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

**RESPONSE:** No changes have been made to the rule as a result of this comment.

**COMMENT #5:** Zach Green, President of Delta Companies Inc., Vice President/Treasurer John View III of Leo Journagan Construction Co., Inc., Leonard Toenjes, President of Association of General Contractors (AGC), and Dale Williams, Executive Director of Missouri Asphalt Pavement Association, submitted a comment to amend the rule to state that the DBE Program rules shall not be more restrictive than the federal DBE regulations in the CFRs. AGC suggested the following amended language: “The commission shall not promulgate rules that are stricter than or implement requirements that are stricter than those found in Title 49, *U.S. Code of Federal Regulations*, Part 26.”

**RESPONSE:** The commission’s new DBE rules adopt and incorporate by reference the federal DBE regulations in Title 49, *Code of Federal Regulations*, Part 26, as the department conducts its DBE Program in compliance with these federal regulations. As a result, there is no need to add language in the rule to prohibit the commission from promulgating rules stricter than federal DBE regulations. No changes have been made to the rule as a result of this comment.

**COMMENT #6:** Green, View, Toenjes, and Williams also submitted a comment to amend this rule to clearly state that restrictive policies and practices in any DBE Program rules will not be inserted into commission state highway system construction contract Job Special Provisions (JSPs) in order to circumvent the rulemaking process or that have the result of making a JSP that is more stringent than federal DBE guidelines and rules.

**RESPONSE:** The commission and department use JSPs in state highway system construction contracts for many reasons. For the JSP relating to DBEs that provide liquid asphalt, it clarifies the liquid asphalt DBE’s requirements to comply with the federal DBE regulations, including the DBE’s performance of a commercially useful function (CUF) and to assist the prime contractor and the DBE firm to accurately document that the DBE performed its responsibilities under the contract. Failure to provide sufficient documentation may result in the loss of federal funds to Missouri and the possible assessment of liquidated damages on the prime contractor.

The commission’s new DBE rule adopts and incorporates by reference the federal DBE regulations in Title 49, *Code of Federal Regulations*, Part 26, as the department shall conduct its DBE Program in compliance with these federal regulations. As a result, there is no need to amend the rule to include language that prohibits the commission from inserting policies and practices more restrictive than federal DBE guidelines and rules into state highway system construction contract JSPs to circumvent the rulemaking process. No changes have been made to the rule as a result of this comment.

Nevertheless, the department intends to reach out to representatives of both prime contractors and the DBE contractor community that work on state highway system construction contracts to explore ways other than through JSPs to implement monitoring procedures to assure prime contractor and DBE compliance with federal DBE rules to demonstrate that DBEs are performing a CUF. A satisfactory alternative monitoring procedure would mean that the department would remove JSPs specifically related to the DBE program from state highway system construction contracts.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 8—Disadvantaged Business Enterprise Program  
ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.011 Definitions is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43

MoReg 253). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O'Kane, L.L.C., a design consultant firm, cited MoDOT's history of making prompt payments to the firm and MoDOT's DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT's DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION**

**Division 10—Missouri Highways and Transportation  
Commission**

**Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation

Commission (MHTC or commission) under sections 226.020, 226.150, 226.900-226.910, RSMo 2016; Title 49 *Code of Federal Regulations* Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation's (MoDOT's or department's) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC adopts a rule as follows:

7 CSR 10-8.011 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 15, 2018 (43 MoReg 253-254). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received five (5) comments on the proposed rule.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O'Kane, L.L.C., a design consultant firm, cited MoDOT's history of making prompt payments to the firm and MoDOT's DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT's DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #5: Zach Green, President of Delta Companies Inc., Vice President/Treasurer John View III of Leo Journagan Construction Co., Inc., Leonard Toenjes, President of Association of General Contractors, and Dale Williams, Executive Director of Missouri Asphalt Pavement Association, submitted a comment to remove the term “regular dealer” from the definition of “firm” in subsection (1)(I) of this proposed rule.

RESPONSE AND EXPLANATION OF CHANGE: In the federal DBE regulations, Title 49, *Code of Federal Regulations*, Part 26.55, a DBE firm may be a “regular dealer” firm. Because the federal DBE regulations already contemplate DBE firms as a regular dealer firm, subsection (1)(I) of this proposed rule will be changed to remove the term “regular dealer”.

### 7 CSR 10-8.011 Definitions

(1) The Missouri Highways and Transportation Commission (commission) adopts the definitions contained in 49 *Code of Federal Regulations* Section 26.5 except as such words and phrases are given meaning and definition below. The following words and phrases have the meaning and definition stated below, exclusively for the purpose of administering and regulating the Disadvantaged Business Enterprise (DBE) Program established by the commission in this chapter:

(I) “Firm” means DBE. Furthermore, the firm and any fictitious name used by the firm must, to the extent required by Missouri law, be properly registered to do business in Missouri with the Missouri Secretary of State and the Missouri Department of Revenue before that firm may perform work or sell materials or supplies in Missouri as a contractor, subcontractor, or as a DBE firm recognized by MoDOT;

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 10—Missouri Highways and Transportation Commission

#### Chapter 8—Disadvantaged Business Enterprise Program

### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

#### 7 CSR 10-8.021 General Information is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 254). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American

Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4–49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 10—Missouri Highways and Transportation Commission

#### Chapter 8—Disadvantaged Business Enterprise Program

### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation,

MHTC rescinds a rule as follows:

**7 CSR 10-8.031 Who Is Governed and Bound by the USDOT and MoDOT DBE Program Regulations is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 254-255). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.041 Effective Date of the DBE Program Under 49 CFR Part 26 is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 255). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies

moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 10—Missouri Highways and Transportation Commission

#### Chapter 8—Disadvantaged Business Enterprise Program

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.051** Procedures and Policies for Initially Certifying and Recertifying Disadvantaged Business Enterprise Firms is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 255). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said

the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 10—Missouri Highways and Transportation Commission

#### Chapter 8—Disadvantaged Business Enterprise Program

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.061** Missouri Unified Certification Program is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 255-256). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the

number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION**

**Division 10—Missouri Highways and Transportation  
Commission**

**Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC adopts a rule as follows:

**7 CSR 10-8.061 Missouri Unified Certification Program  
is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 15, 2018 (43 MoReg 256-257). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rule.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rule as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION**

**Division 10—Missouri Highways and Transportation  
Commission**

**Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation's (MoDOT's or department's) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.071 DBE Program Reporting and Disclosure Requirements for Currently Certified DBE Firms is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 257). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O'Kane, L.L.C., a design consultant firm, cited MoDOT's history of making prompt payments to the firm and MoDOT's DBE goals as having helped the

company grow its bridge design business, including hiring more staff. Without MoDOT's DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation's (MoDOT's or department's) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.081 Ineligibility Complaints is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 257). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of

Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION**

**Division 10—Missouri Highways and Transportation  
Commission**

**Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.091** MoDOT Procedures and Hearings to Remove a Firm’s DBE Eligibility **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 257-258). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION**

**Division 10—Missouri Highways and Transportation  
Commission**

**Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.101** The Effect of a USDOT Certification Appeal **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 258). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 10—Missouri Highways and Transportation Commission

#### Chapter 8—Disadvantaged Business Enterprise Program

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141;

and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

#### 7 CSR 10-8.111 Prompt Payment, Record Keeping and Audit Requirements is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 258). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION**

**Division 10—Missouri Highways and Transportation  
Commission**

**Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation's (MoDOT's or department's) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.121** MoDOT DBE Program Annual Goals and Contract Goals is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 258-259). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** MHTC received four (4) comments on the proposed rescission.

**COMMENT #1:** Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**COMMENT #2:** Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**COMMENT #3:** Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies

moved from being DBE partners as sub-consultants to prime consultants.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**COMMENT #4:** Amanda Bush, of Leigh & O'Kane, L.L.C., a design consultant firm, cited MoDOT's history of making prompt payments to the firm and MoDOT's DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT's DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION**

**Division 10—Missouri Highways and Transportation  
Commission**

**Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation's (MoDOT's or department's) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC adopts a rule as follows:

7 CSR 10-8.121 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 15, 2018 (43 MoReg 259-260). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** MHTC received nine (9) comments on the proposed rule.

**COMMENT #1:** Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

**RESPONSE:** No changes have been made to the rule as a result of this comment.

**COMMENT #2:** Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules

in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT #5: Zach Green, President of Delta Companies Inc., Vice President/Treasurer John View III of Leo Journagan Construction Co., Inc., Leonard Toenjes, President of Association of General Contractors (AGC), and Dale Williams, Executive Director of Missouri Asphalt Pavement Association, submitted a comment to amend subsection (1)(A) of this proposed rule to require the commission and MoDOT to use the “bidder’s list” goal setting methodology, as well as any other allowable methods, as a means to develop the project goals and as an alternative to the current methodology. AGC suggested the following language may be used: “MoDOT will utilize all DBE goal setting methods allowed in Title 49 CFR Part 26.45 and utilize the method that best reflects the current DBE business climate in Missouri.”

RESPONSE: While the commission is authorized to consider each DBE goal-setting methodology allowed in the federal DBE regulations (49 CFR Part 26.45), these regulations do not require the commission and department to utilize all allowed DBE goal setting methods. Requiring MoDOT to use all DBE goal setting methods would exceed the federal regulations, which the department shall not do. No change has been made to the rule as a result of this comment.

COMMENT #6: Green, View, Toenjes, and Williams submitted a comment to amend subsection (1)(A) of this proposed rule to delete two terms: 1. “legally defensible”, as it is arbitrary and any method used outside the federal rules becomes subjective; and 2. “constitutional”, as the DBE Program is not a constitutional requirement.

RESPONSE AND EXPLANATION OF CHANGE: Federal appellate caselaw requires any DBE goal-setting methodology to be legally defensible under the U.S. Constitution’s equal protection clause (see U.S. Constitution, Amendments 5 and 14). The terms “legally defensible” and “constitutional” are not explicitly mentioned in the federal DBE regulations. The federal DBE regulations (49 CFR Part 26.1) say one of the objectives of the federal regulations is to ensure the DBE program is narrowly tailored according to applicable law. Because the commission rule adopts and incorporates by reference the federal DBE regulations, the commission agrees to remove these terms in subsection (1)(A) of this proposed rule.

COMMENT #7: Green, View, Toenjes, and Williams submitted a

comment to amend subsection (1)(A) of this proposed rule to prescribe a transparent, well-defined, repeatable and objective method to set DBE project goals as the current rules for setting project specific goals are vague.

RESPONSE: The department has provided and will continue to provide education and information sharing forums, workshops and sessions to ensure its project goal setting methodology meets the federal DBE regulations and is transparent, well-defined, objective, and fair. The federal DBE regulations do not expressly state that a state must use a transparent, well-defined, repeatable and objective method to set DBE project goals. The department already uses a method to set goals that is allowed by the federal rules. No change has been made to the rule as a result of this comment.

COMMENT #8: Green, View, Toenjes, and Williams submitted a comment to amend section (1) of this proposed rule to require MoDOT to collect information required to establish the overall Missouri DBE Program goal to expressly include all DBE goal setting methods allowed in Title 49, *Code of Federal Regulations*, Part 26.45, such as a Bidder’s List, that best reflect the current DBE business climate bidding on MoDOT and transportation related projects in Missouri.

RESPONSE: The department is currently researching the requirements and tools to collect the necessary information to consider all overall DBE goal setting options. However, the federal DBE regulations do not require a state department of transportation to collect information for all DBE goal setting methods allowed in the federal regulations. No change has been made to the rule as a result of this comment.

COMMENT #9: Green, View, Toenjes, and Williams submitted a comment to delete the language in subsection (1)(B) of this proposed rule that states as follows: “the effects of discrimination on opportunities for DBEs, and MoDOT’s efforts to establish a level playing field for the participation of DBE firms in USDOT assisted contracts pertaining to highway, transit and airport financial assistance programs.” This deletion is needed because it does not relate to the context of the sentence/paragraph.

RESPONSE AND EXPLANATION OF CHANGE: There are several objectives of the federal DBE program. Title 49 CFR Part 26.2, lists two such objectives: 1) create a level playing field for DBEs to compete fairly for DOT-assisted contracts; and 2) ensure nondiscrimination in the award and administration of DOT-assisted contracts in highway, transit, and airport financial assistance programs. Deletion of the language in subsection (1)(B) as proposed by the public comment would be inconsistent with the objectives cited in the federal DBE regulations. But the language in the proposed new rule needs further amendment to make the rule consistent with the federal DBE regulation objectives. So a change has been made to the rule as a result of this comment.

## 7 CSR 10-8.121 MoDOT DBE Program Goals, Contract Goals

### (1) Overall Program Goal.

(A) Amount of Goal. Missouri Department of Transportation (MoDOT) may use an interim goal-setting mechanism while it updates its availability calculations to set its Disadvantaged Business Enterprise (DBE) goals. MoDOT may consult with economic and statistical experts to assist in adopting a goal-setting methodology that best meets the requirements of narrow tailoring in setting MoDOT’s overall DBE goal.

### (B) Goal-Setting Process.

1. MoDOT will submit its overall DBE Program goal to the United States Department of Transportation (USDOT) on August 1 at three (3) year intervals, based on a schedule established by the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), or Federal Aviation Administration (FAA), as applicable. Before establishing the overall goal, MoDOT will consult

with minority, female, and general contractor groups, community organizations, and other officials or organizations. These groups include any organization or individuals necessary to obtain information that:

A. Reveals the availability of disadvantaged and non-disadvantaged businesses;

B. Ensures non-discrimination on opportunities for DBEs; and

C. Assists MoDOT's efforts to establish a level playing field for the participation of DBE firms in USDOT assisted contracts pertaining to highway, transit, and airport financial assistance programs. MoDOT will publish the proposed overall goal in general circulation, minority and female focused publications, trade association publications, and the MoDOT website. MoDOT will publish a notice of its goal-setting process by June 1 of any year an overall goal is being set, at three (3) year intervals, in order to allow thirty (30) days for inspection and public comment.

2. Following this consultation, MoDOT will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the headquarters office for thirty (30) days following the date of the notice. MoDOT and the USDOT will accept comments on the goals for forty-five (45) days from the date of the notice. MoDOT will plan to issue the notice by June 1 of any year an overall goal is being set, at three (3) year intervals. The notice will include addresses to which comments may be sent and addresses, including office and website addresses where the proposal may be reviewed. MoDOT will begin using the overall goal on October 1 of any year an overall goal is being set, at (3) year intervals, unless other instructions have been received from USDOT.

3. MoDOT will include a summary of information and comments received during this public participation process and MoDOT's responses in the overall goal submission to the USDOT.

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 10—Missouri Highways and Transportation Commission

#### Chapter 8—Disadvantaged Business Enterprise Program

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation's (MoDOT's or department's) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

#### 7 CSR 10-8.131 DBE Participation Credit Toward Project or Contract Goals is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 260). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American

Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O'Kane, L.L.C., a design consultant firm, cited MoDOT's history of making prompt payments to the firm and MoDOT's DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT's DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

## Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

### Division 10—Missouri Highways and Transportation Commission

#### Chapter 8—Disadvantaged Business Enterprise Program

#### ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation's (MoDOT's or department's) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation,

MHTC rescinds a rule as follows:

**7 CSR 10-8.141 USDOT-Assisted DBE Contract Awards and Good Faith Efforts is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 260). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** MHTC received four (4) comments on the proposed rescission.

**COMMENT #1:** Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**COMMENT #2:** Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**COMMENT #3:** Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**COMMENT #4:** Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.151 Performance of a Commercially Useful Function by a DBE Firm is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 260-261). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** MHTC received six (6) comments on the proposed rescission.

**COMMENT #1:** Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**COMMENT #2:** Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

**RESPONSE:** No changes have been made to the rescission as a result of this comment.

**COMMENT #3:** Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies

moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #5: Zach Green, President of Delta Companies Inc., Vice President/Treasurer John View III of Leo Journagan Construction Co., Inc., Leonard Toenjes, President of Association of General Contractors, and Dale Williams, Executive Director of Missouri Asphalt Pavement Association, submitted a comment that the commission should not rescind 7 CSR 10-8.151. Instead, this rule should be retained and amended to: 1) clearly define the prime contractor’s responsibility in regard to a DBE performing a commercially useful function (CUF), except the rule should not be more onerous than the CFRs; 2) identify the entity that is assessed damages when a qualified DBE knowingly and willingly violates the DBE Program rules as the current DBE Program is very onerous to the prime contractor; and 3) add language that says when MoDOT evaluates whether to certify a DBE under the Program, MoDOT shall ensure the DBE fully understands the Program requirements and the consequences when not performing a CUF.

RESPONSE: The commission and department’s proposed new rules adopt and incorporate by reference the federal DBE regulations at Title 49, CFR Part 26 into the new rules. The issues raised in this comment are already addressed in the federal DBE regulations. No changes have been made to the rescission as a result of this comment.

COMMENT #6: Green, View, and Williams also submitted a comment to amend this rule or 7 CSR 10-8.005 to clearly state that restrictive policies and practices in any DBE Program rules will not be inserted into commission state highway system construction contract Job Special Provisions (JSPs) in order to circumvent the rule-making process.

RESPONSE: The commission and department use JSPs in state highway system construction contracts for many reasons. For the JSP relating to DBEs that provide liquid asphalt, it clarifies the liquid asphalt DBE’s requirements to comply with the federal DBE regulations, including the DBE’s performance of a commercially useful function (CUF) and to assist the prime contractor and the DBE firm to accurately document that the DBE performed its responsibilities under the contract. Failure to provide sufficient documentation may result in the loss of federal funds to Missouri and the possible assessment of liquidated damages on the prime contractor.

The commission’s new DBE rule adopts and incorporates by reference the federal DBE regulations in Title 49, *Code of Federal Regulations*, Part 26, as the department shall conduct its DBE Program in compliance with these federal regulations. As a result, there is no need to amend the rule to include language that prohibits the commission from inserting policies and practices more restrictive than federal DBE guidelines and rules into state highway system construction contract JSPs to circumvent the rulemaking process. No changes have been made to the rescission as a result of this comment.

Nevertheless, the department intends to reach out to representatives of both prime contractors and the DBE contractor community that work on state highway system construction contracts to explore ways other than through JSPs to implement monitoring procedures to assure prime contractor and DBE compliance with federal DBE rules to demonstrate that DBEs are performing a CUF. A satisfactory alter-

native monitoring procedure would mean that the department would remove JSPs specifically related to the DBE program from state highway system construction contracts.

**Title 7—MISSOURI DEPARTMENT  
OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation  
Commission  
Chapter 8—Disadvantaged Business Enterprise Program**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Highways and Transportation Commission (MHTC or commission) under section 226.150, RSMo 2016; Title 49 *Code of Federal Regulations* (CFR) Part 26; Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users, Public Law (P.L.) 105-178, 112 Stat. 107, 113; The Moving Ahead for Progress in the 21st Century Act, P.L. 112-141; and the Missouri Department of Transportation’s (MoDOT’s or department’s) approved Disadvantaged Business Enterprise (DBE) Program submittals to the U.S. Department of Transportation, MHTC rescinds a rule as follows:

**7 CSR 10-8.161 Confidentiality of DBE Program Financial and Other Information is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 261). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: MHTC received four (4) comments on the proposed rescission.

COMMENT #1: Bruce Wylie, President and CEO of American Council of Engineering Companies (ACEC) of Missouri, noted that the MoDOT DBE Program has had great success in growing the number of minority and woman-owned firms, and in growing the capacity of those firms to provide engineering services in Missouri. ACEC supports the DBE rules as proposed and noted that one indicator of the success of the MoDOT DBE Program is the growth in the number of DBE firms (from ten (10) in 2009 to sixteen (16) in 2011 and to twenty-four (24) in 2016) that are ACEC-Missouri members.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #2: Linda Moen, President of EFK Moen, a civil engineering design firm, stated her twenty- (20-) year old firm has directly seen the benefits of the DBE program in the industry and has contributed to the success of the firm, which has grown from four to forty-nine (4-49) people and from two hundred thousand dollars (\$200,000) in revenue to over \$7,000,000 in revenue. Moen also said the firm has gone from an incubator start-up to a prime consultant that hires DBE firms as sub-consultants. Moen said MoDOT staff has educated her firm on the intent of the DBE program and the rules in which her firm must comply to participate as a DBE. Moen applauded MoDOT for implementing a very successful DBE program in Missouri.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #3: Gretchen Ivy, Vice President and Director of Transportation Planning with HNTB Corporation, wrote that she supports the DBE Mentor-Protégé program and HNTB has found the

DBE Program to be a very effective way to form new relationships with DBE firms that have not historically worked with MoDOT. Ivy wrote the DBE program has helped many small MBE/WBE firms establish a strong reputation in engineering and contracting industries, and that they had noticed a trend of those small companies moved from being DBE partners as sub-consultants to prime consultants.

RESPONSE: No changes have been made to the rescission as a result of this comment.

COMMENT #4: Amanda Bush, of Leigh & O’Kane, L.L.C., a design consultant firm, cited MoDOT’s history of making prompt payments to the firm and MoDOT’s DBE goals as having helped the company grow its bridge design business, including hiring more staff. Without MoDOT’s DBE goals, the firm would not have had the opportunity to gain experience and develop a working relationship with MoDOT.

RESPONSE: No changes have been made to the rescission as a result of this comment.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 30—Certification Standards  
Chapter 3—Substance Use Disorder Treatment Programs**

**ORDER OF RULEMAKING**

By the authority vested in the Director of the Department of Mental Health under sections 630.192, and 630.193 to 630.198, RSMo 2016, the Department of Mental Health amends a rule as follows:

**9 CSR 30-3.201 Substance Abuse Traffic Offender Program  
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2018 (43 MoReg 673–675). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 30—Certification Standards  
Chapter 3—Substance Use Disorder Treatment Programs**

**ORDER OF RULEMAKING**

By the authority vested in the Director of the Department of Mental Health under sections 630.192, and 630.193 to 630.198, RSMo 2016, the Department of Mental Health amends a rule as follows:

**9 CSR 30-3.202 SATOP Administration and Service  
Documentation is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2018 (43 MoReg 675–678). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 30—Certification Standards  
Chapter 3—Substance Use Disorder Treatment Programs**

**ORDER OF RULEMAKING**

By the authority vested in the Director of the Department of Mental Health under sections 630.192, and 630.193 to 630.198, RSMo 2016, the Department of Mental Health amends a rule as follows:

**9 CSR 30-3.204 SATOP Personnel is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2018 (43 MoReg 678–680). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 30—Certification Standards  
Chapter 3—Substance Use Disorder Treatment Programs**

**ORDER OF RULEMAKING**

By the authority vested in the Director of the Department of Mental Health under sections 630.192, and 630.193 to 630.198, RSMo 2016, the Department of Mental Health amends a rule as follows:

**9 CSR 30-3.206 SATOP Structure is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2018 (43 MoReg 680–686). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 30—Certification Standards  
Chapter 3—Substance Use Disorder Treatment Programs**

**ORDER OF RULEMAKING**

By the authority vested in the Director of the Department of Mental Health under sections 630.192, and 630.193 to 630.198, RSMo 2016, the Department of Mental Health amends a rule as follows:

**9 CSR 30-3.208 SATOP Supplemental Fee is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2018 (43 MoReg 686–687). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 1—Organization**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.365, 260.370, and 260.400 RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-1.010 Organization is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 265–266). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.900 and 260.905, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.010 Applicability is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 266). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.900 and 260.905, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.020 Definitions is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 266). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905, 260.935, and 260.940, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.030 Registration and Surcharges is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 266–267). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905 and 260.955, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.040 Reporting and Record Keeping is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 267). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905 and 260.910, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.050 Reporting of Releases and Existing Contamination is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 267). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under section 260.905, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.060 Site Prioritization and Completion is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 267-268). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under section 260.905, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.070 Closure of Facilities is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 268). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under section 260.905, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.080 Site Characterization and Corrective Action is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 268). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under section 260.905, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.090 Application Procedures is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 268-269). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment

period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905 and 260.925, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.100 Participation and Eligibility for Funding  
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 269). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905 and 260.925, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.110 Eligible Costs is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 269). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905 and 260.925, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.120 Payment of Deductible and Limits on Payments  
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 269–270). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905 and 260.945, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.130 Suspension of Collection of Surcharges;  
Reinstatement is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 270). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund**

**ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under section 260.905, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.140** General Reimbursement Procedures  
**is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 270). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund****ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under section 260.905, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.150** Claims **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 270-271). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund****ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905 and 260.925, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.160** Notification of Abandoned Sites **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 271). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no

comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 25—Hazardous Waste Management Commission  
Chapter 17—Dry-Cleaning Environmental Response  
Trust Fund****ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under sections 260.905 and 260.910, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 25-17.170** Violations of Dry Cleaning Remediation Laws  
**is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 271). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 26—Petroleum and Hazardous Substance  
Storage Tanks  
Chapter 1—Underground and Aboveground Storage  
Tanks—Organization****ORDER OF RULEMAKING**

By the authority vested in the Hazardous Waste Management Commission under section 536.021, RSMo 2016, the commission hereby rescinds a rule as follows:

**10 CSR 26-1.010** Organization **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 271-272). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A public hearing on this proposed rescission was held on March 22, 2018, and the public comment period ended on March 29, 2018. At the public hearing Department of Natural Resources staff explained the proposed rescission and no comments were received, either at the public hearing or in writing by the comment deadline.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 15—Division of Senior and Disability Services  
Chapter 3—Service Credit Program (Older Volunteer  
Service Bank)****ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under sections 208.300–208.305, RSMo 2016, the department rescinds a rule as follows:

**19 CSR 15-3.010 Definitions is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 279). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 15—Division of Senior and Disability Services  
Chapter 3—Service Credit Program (Older Volunteer Service Bank)**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under sections 208.300–208.305, RSMo 2016, the department rescinds a rule as follows:

**19 CSR 15-3.020 Sponsoring Agencies is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 279–280). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 15—Division of Senior and Disability Services  
Chapter 3—Service Credit Program (Older Volunteer Service Bank)**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under sections 208.300–208.305, RSMo 2016, the department rescinds a rule as follows:

**19 CSR 15-3.030 Volunteers is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 280). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 15—Division of Senior and Disability Services  
Chapter 3—Service Credit Program (Older Volunteer Service Bank)**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under sections 208.300–208.305, RSMo 2016, the department rescinds a rule as follows:

**19 CSR 15-3.040 Service Credits is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 280). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 15—Division of Senior and Disability Services  
Chapter 3—Service Credit Program (Older Volunteer Service Bank)**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under sections 208.300–208.305, RSMo 2016, the department rescinds a rule as follows:

**19 CSR 15-3.050 Redemption of Credits is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 280). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 15—Division of Senior and Disability Services  
Chapter 4—Older Americans Act**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under section 660.050, RSMo 2016, the department rescinds a rule as follows:

**19 CSR 15-4.030 Governor’s Advisory Council on Aging is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 280–281). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 15—Division of Senior and Disability Services  
Chapter 4—Older Americans Act**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under section 660.050, RSMo 2016, the department rescinds a rule as follows:

**19 CSR 15-4.310** Corporate Eldercare is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 281). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 40—Comprehensive Emergency Medical Services  
Systems Regulations**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under sections 190.176 and 190.185, RSMo 2016, and section 190.241, RSMo Supp. 2017, the department amends a rule as follows:

**19 CSR 30-40.420** Trauma Center Designation Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2018 (43 MoReg 546–551). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 40—Comprehensive Emergency Medical Services  
Systems Regulations**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Department of Health and Senior Services under sections 190.185 and 192.006, RSMo 2016, and section 190.241, RSMo Supp. 2017, the department amends a rule as follows:

**19 CSR 30-40.750** ST-Segment Elevation Myocardial Infarction (STEMI) Center Designation Application and Review is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2018 (43 MoReg 551–555). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 70—Lead Abatement and Assessment Licensing,  
Training Accreditation**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 701.301 and 701.312, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 30-70.200** Application Process and Requirements for the Licensure of Risk Assessors Who Possessed a Valid Missouri Lead Inspector License on August 28, 1998 is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 281). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH  
AND SENIOR SERVICES  
Division 40—Division of Maternal, Child and  
Family Health  
Chapter 10—Forensic Examinations for Sexual Assault**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 40-10.010** Payments for Sexual Assault Forensic Examinations is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 281). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 50—Division of Injury Prevention, Head  
Injury Rehabilitation and Local Health Services  
Chapter 3—Legal Expense Fund Coverage**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 105.711, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 50-3.010** Volunteer Health Care Workers in a School is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43

MoReg 282). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 50—Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services**  
**Chapter 10—Missouri Rehabilitation Center**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 50-10.010 Standard Means Test for Patients is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 282). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 50—Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services**  
**Chapter 10—Missouri Rehabilitation Center**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 50-10.020 Patient Rights Regarding Health Care Decisions is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 282). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 90—Missouri Senior Rx Program**  
**Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-1.010 Definitions is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 282–283). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 90—Missouri Senior Rx Program**  
**Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-1.020 Eligibility and Application Process is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 283). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 90—Missouri Senior Rx Program**  
**Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-1.030 General Payment Provisions is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 283). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**  
**Division 90—Missouri Senior Rx Program**  
**Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-1.040** Claimant’s Responsibilities is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 283). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 90—Missouri Senior Rx Program  
Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-1.050** Process for Reenrollment into the Program is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 283–284). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 90—Missouri Senior Rx Program  
Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-1.060** Authorized Agent is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 284). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 90—Missouri Senior Rx Program  
Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a

rule as follows:

**19 CSR 90-1.070** Program Identification Card is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 284). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 90—Missouri Senior Rx Program  
Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-1.080** Termination from the Program is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 284–285). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 90—Missouri Senior Rx Program  
Chapter 1—Eligible Seniors**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-1.090** Appeal Process is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 285). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**Division 90—Missouri Senior Rx Program  
Chapter 2—Participating Pharmacies**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior

Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-2.010 Definitions is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 285). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 90—Missouri Senior Rx Program  
Chapter 2—Participating Pharmacies**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-2.020 Eligibility and Application Process is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 285). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 90—Missouri Senior Rx Program  
Chapter 2—Participating Pharmacies**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-2.030 Responsibilities of Enrolled Participating Pharmacies is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 285–286). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 90—Missouri Senior Rx Program  
Chapter 2—Participating Pharmacies**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-2.040 Termination or Suspension from the Program is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 286). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 90—Missouri Senior Rx Program  
Chapter 2—Participating Pharmacies**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 192.006, RSMo 2016, the director rescinds a rule as follows:

**19 CSR 90-2.050 Appeal Process is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2018 (43 MoReg 286). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2220—State Board of Pharmacy  
Chapter 4—Fees Charged by the Board of Pharmacy**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Pharmacy under sections 338.020, 338.035, 338.040, 338.060, 338.070, 338.140, 338.185, 338.220, 338.230, 338.270, 338.280, 338.335 and 338.350, RSMo 2016, the board amends a rule as follows:

**20 CSR 2220-4.010 General Fees is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2018 (43 MoReg 699–701). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.