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SALUS POPULI SUPREMA LEX ESTO

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

JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI REGISTER

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HOW TO CITE RULES AND RSMO

RULES

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

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

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

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

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

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

Code and *Register* on the Internet

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

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

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

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

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

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending subsections (3)(B) and (15)(B).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2019 trend factor to be applied in determining Federal Reimbursement Allowance (FRA) funded hospital payments for SFY 2019 along with updates to the calculation of the SFY 2019 Direct Medicaid payments.

*EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division (MHD) finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. An early effective date is required because this emergency amendment establishes the Federal Reimbursement Allowance (FRA) funded hospital payments for dates of service beginning July 1, 2018 in regulation to ensure that quality health care continues to be provided to MO HealthNet participants and indigent patients at hospitals that have relied on MO HealthNet payments to meet those patients' needs. The division uses the best information available for the trend for the upcoming state fiscal year so it is using the trend published in the First Quarter Healthcare Cost Review publication which is generally not available until May. The division must also analyze hospital data, which is not complete until near the end of the state fiscal year, in conjunction with the trend and funding to determine the appropriate level of payments. Without this information, the trends cannot be determined; therefore, due to timing of the receipt of this information and the necessary July 1, 2018 effective date, an emergency regulation is necessary. As a result, the MHD finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri hospitals which serve approximately nine hundred seventy-one thousand (971,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health, safety, and welfare of MO HealthNet participants and uninsured individuals in need of medical treatment. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The MHD believes this emergency amendment to be fair to all interested persons and parties under the circumstances. The emergency amendment was filed June 21, 2018, becomes effective July 1, 2018, and expires February 28, 2019.*

(3) Per Diem Reimbursement Rate Computation. Each hospital shall receive a MO HealthNet per diem rate based on the following computation:

(B) Trend Indices (TI). Trend indices are determined based on the four- (4-) quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 1999 will be determined based on CPI Hospital index as published in *Health Care Costs* by DRI/McGraw-Hill, or equivalent publication, regardless of any changes in the name of the publication or publisher, for each State Fiscal Year (SFY). Trend indices starting in SFY 2016 will be determined based on the Hospital Market Basket index as published in *Healthcare Cost Review* by Institute of Health Systems (IHS), or equivalent publication, regardless of any changes in the name of the publication or publisher, for each State Fiscal Year (SFY).

1. The TI are—

A. SFY 1994—4.6%
B. SFY 1995—4.45%
C. SFY 1996—4.575%
D. SFY 1997—4.05%
E. SFY 1998—3.1%
F. SFY 1999—3.8%
G. SFY 2000—4.0%
H. SFY 2001—4.6%
I. SFY 2002—4.8%
J. SFY 2003—5.0%
K. SFY 2004—6.2%
L. SFY 2005—6.7%
M. SFY 2006—5.7%
N. SFY 2007—5.9%
O. SFY 2008—5.5%
P. SFY 2009—5.5%
Q. SFY 2010—3.9%
R. SFY 2011—3.2%—The 3.2% trend shall not be applied in determining the per diem rate, Direct Medicaid payments, or uninsured payments.
S. SFY 2012—4.0%
T. SFY 2013—4.4%
U. SFY 2014—3.7%
V. SFY 2015—4.3%
W. SFY 2016—2.5%

X. SFY 2017—2.7%
Y. SFY 2018—3.2%
Z. SFY 2019—2.8%

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per diem rate and for SFY 1999 the OC of the June 30, 1998, rate shall be trended by 1.2% and for SFY 2000 the OC of the June 30, 1999, rate shall be trended by 2.4%. The OC of the June 30, 2000, rate shall be trended by 1.95% for SFY 2001.

3. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid payments computed in accordance with subsection (15)(B).

4. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which reenters the MO HealthNet Program, will receive the same inpatient rate and outpatient rate as the previous owner/operator. Such facility will also receive the same Direct Medicaid Add-On Payment and Uninsured Add-On Payment as the previous owner/operator if the facility reenters the MO HealthNet Program during the same state fiscal year. If the facility does not reenter during the same state fiscal year, the Direct Medicaid Add-On Payment and Uninsured Add-On Payment will be determined based on the applicable base year data (i.e., fourth prior year cost report for the Direct Medicaid Payment; see 13 CSR 70-15.220 for the applicable data for the Uninsured Add-On Payment). If the facility does not have the applicable base year data, the Direct Medicaid Add-On Payment and the Uninsured Add-On Payment will be based on the most recent audited data available and will include annual trend factor adjustments from the year subsequent to the cost report period through the state fiscal year for which the payments are being determined.

(15) Direct Medicaid Payments.

(B) Direct Medicaid payment will be computed as follows:

1. The MO HealthNet share of the inpatient FRA assessment will be calculated by dividing the hospital's inpatient Medicaid patient days by the total inpatient hospital patient days from the hospital's base cost report to arrive at the inpatient Medicaid utilization percentage. This percentage is then multiplied by the inpatient FRA assessment for the current SFY to arrive at the increased allowable MO HealthNet costs for the inpatient FRA assessment. The MO HealthNet share of the outpatient FRA assessment will be calculated by dividing the hospital's outpatient MO HealthNet charges by the total outpatient hospital charges from the base cost report to arrive at the MO HealthNet utilization percentage. This percentage is then multiplied by the outpatient FRA assessment for the current SFY to arrive at the increased allowable MO HealthNet costs for the outpatient FRA assessment.

A. Effective for payments made on or after May 1, 2017, only the Fee-for-Service and Out-of-State components of the MO HealthNet share of both the inpatient and outpatient FRA assessment will be included in the Direct Medicaid add-on payment.

2. The unreimbursed MO HealthNet costs are determined by subtracting the hospital's per diem rate from its trended per diem costs. The difference is multiplied by the estimated MO HealthNet patient days for the current SFY plus the out-of-state days from the fourth prior year cost report trended to the current SFY. The estimated MO HealthNet patient days for the current SFY shall be the better of the sum of the Fee-for-Service (FFS) days plus managed care days or the days used in the prior SFY's Direct Medicaid payment calculation. The FFS days are determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior SFY. The managed care days are based on the FFS days determined from the regression analysis, as follows: The FFS days are factored up by the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report. The difference between the FFS days and the FFS days factored up by the FFS days' percentage are the managed care days.

A. Effective January 1, 2010, the estimated MO HealthNet patient days shall be the better of the sum of the FFS days plus managed care days or the days used in the prior SFY's Direct Medicaid payment calculation (i.e., for SFY 2010, prior SFY would be SFY 2009) adjusted downward by twenty-five percent (25%) of the difference between the sum of the FFS days plus managed care days and the days used in the prior SFY's Direct Medicaid payment calculation.

(I) The FFS days plus managed care days are determined as follows: The FFS days are determined by applying a trend to the second prior Calendar Year (CY) days (i.e., for SFY 2010, second prior CY would be 2008) as determined from the state's Medicaid Management Information System (MMIS). The trend is determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY. The managed care days are based on the FFS days determined from the regression analysis, as follows: The FFS days are factored up by the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report. The difference between the FFS days and the FFS days factored up by the FFS days' percentage are the managed care days.

(II) The days used in the prior SFY's Direct Medicaid payment calculation adjusted downward by twenty-five percent (25%) are determined as follows: The days used in the prior SFY's Direct Medicaid payment calculation are compared to the sum of the FFS days plus managed care days as determined in part (15)(B)2.A.(I). If the hospital has greater estimated days as used in the prior SFY's Direct Medicaid payment calculation than the sum of the FFS days plus managed care days as determined in part (15)(B)2.A.(I), the difference between the days is multiplied by twenty-five percent (25%), and this amount is removed from the estimated days used in the prior SFY's Direct Medicaid payment calculation to arrive at the current year's estimated days.

B. Effective July 1, 2010, the estimated MO HealthNet patient days shall be the better of the sum of the FFS days plus managed care days or the days used in the SFY 2009 Direct Medicaid payment calculation adjusted downward by fifty percent (50%) of the difference between the sum of the FFS days plus managed care days and the days used in the SFY 2009 Direct Medicaid payment calculation.

(I) The FFS days plus managed care days are determined as set forth in part (15)(B)2.A.(I).

(II) The days used in the prior SFY's Direct Medicaid payment calculation adjusted downward by fifty percent (50%) are determined as follows: The days used in the prior SFY's Direct Medicaid payment calculation are compared to the sum of the FFS days plus managed care days as determined in part (15)(B)2.A.(I). If the hospital has greater estimated days as used in the prior SFY's Direct Medicaid payment calculation than the sum of the FFS days plus managed care days as determined in part (15)(B)2.A.(I), the difference between the days is multiplied by fifty percent (50%) and this amount is removed from the estimated days used in the prior SFY's Direct Medicaid payment calculation to arrive at the current year's estimated days.

C. Effective July 1, 2011, the estimated MO HealthNet patient days shall be the better of the sum of the FFS days plus managed care days or the days used in the SFY 2009 Direct Medicaid payment calculation adjusted downward by seventy-five percent (75%) of the difference between the sum of the FFS days plus managed care days and the days used in the SFY 2009 Direct Medicaid payment calculation.

(I) The FFS days plus managed care days are determined as set forth in part (15)(B)2.A.(I).

(II) The days used in the prior SFY's Direct Medicaid payment calculation adjusted downward by seventy-five percent (75%) are determined as follows: The days used in the prior SFY's Direct Medicaid payment calculation are compared to the sum of the FFS days plus managed care days as determined in part (15)(B)2.A.(I). If

the hospital has greater estimated days as used in the prior SFY's Direct Medicaid payment calculation than the sum of the FFS days plus managed care days as determined in part (15)(B)2.A.(I), the difference between the days is multiplied by seventy-five percent (75%) and this amount is removed from the estimated days used in the prior SFY's Direct Medicaid payment calculation to arrive at the current year's estimated days.

D. Effective July 1, 2012, the estimated MO HealthNet patient days shall be the sum of the FFS days plus managed care days. The FFS days plus managed care days are determined as set forth in part (15)(B)2.A.(I).

E. Effective for payments made on or after May 1, 2017, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2017, second prior CY would be 2015) by:

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY; and

(II) The days estimated to shift from FFS to managed care effective May 1, 2017. The estimated managed care days for populations added to managed care beginning May 1, 2017 will be subtracted from the trended FFS days to yield the estimated MO HealthNet patient days.

F. Effective for payments made on or after July 1, 2018, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2019, second prior CY would be 2017) by:

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY;

(II) A percentage adjustment shall be applied to the regression due to statewide managed care;

(III) The FFS days are factored up by the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report to yield the estimated MO HealthNet patient days; and

(IV) From the total estimated MO HealthNet patient days, remove the SFY 2019 estimated managed care days to yield the estimated MO HealthNet FFS patient days.

*[F.]***G.** The trended cost per day is calculated by trending the base year costs per day by the trend indices listed in paragraph (3)(B)1., using the rate calculation in subsection (3)(A). In addition to the trend indices applied to inflate base period costs to the current fiscal year, base year costs will be further adjusted by a Missouri Specific Trend. The Missouri Specific Trend will be used to address the fact that costs for Missouri inpatient care of MO HealthNet residents have historically exceeded the compounded inflation rates estimated using national hospital indices for a significant number of hospitals. The Missouri Specific Trend will be applied at one and one-half percent (1.5%) per year to the hospital's base year. For example, hospitals with a 1998 base year will receive an additional six percent (6%) trend, and hospitals with a 1999 base year will receive an additional four and one-half percent (4.5%) trend.

(I) Effective for dates of service beginning July 1, 2010, the Missouri Specific Trend shall no longer be applied to inflate base period costs.

*[G.]***H.** For hospitals that meet the requirements in paragraphs (6)(A)1., (6)(A)2., and (6)(A)4. of this rule (safety net hospitals), the base year cost report may be from the third prior year, the fourth prior year, or the fifth prior year. For hospitals that meet the requirements in paragraphs (6)(A)1. and (6)(A)3. of this rule (first tier Disproportionate Share Hospitals), the base year operating costs may be the third or fourth prior year cost report. The MO HealthNet Division shall exercise its sole discretion as to which report is most representative of costs. For all other hospitals, the base year operating costs are based on the fourth prior year cost report. For any hospital that has both a twelve- (12-) month cost report and a partial year cost report, its base period cost report for that year will be the twelve- (12-) month cost report.

*[H.]***I.** The trended cost per day does not include the costs associated with the FRA assessment, the application of minimum utilization, the utilization adjustment, and the poison control costs computed in paragraphs (15)(B)1., 3., 4., and 5.;

3. The minimum utilization costs for capital and medical education is calculated by determining the difference in the hospital's cost per day when applying the minimum utilization, as identified in paragraph (5)(C)4., and without applying the minimum utilization. The difference in the cost per day is multiplied by the estimated MO HealthNet patient days for the SFY;

4. The utilization adjustment cost is determined by estimating the number of MO HealthNet inpatient days the hospital will not provide as a result of the managed care health plans limiting inpatient hospital services. These days are multiplied by the hospital's cost per day to determine the total cost associated with these days. This cost is divided by the remaining total patient days from its base period cost report to arrive at the increased cost per day. This increased cost per day is multiplied by the estimated MO HealthNet days for the current SFY to arrive at the MO HealthNet utilization adjustment.

A. Effective January 1, 2010, hospitals other than safety net hospitals as defined in subsection (6)(B) will receive sixty-seven percent (67%) of the utilization adjustment calculated in accordance with paragraph (15)(B)4. Safety net hospitals will continue to receive one hundred percent (100%) of the adjustment calculated in accordance with paragraph (15)(B)4.

B. Effective July 1, 2010, hospitals other than safety net hospitals as defined in subsection (6)(B), children's hospitals as defined in subsection (2)(S), and specialty pediatric hospitals as defined in subsection (2)(P) will receive thirty-four percent (34%) of the utilization adjustment calculated in accordance with paragraph (15)(B)4. Children's hospitals and specialty pediatric hospitals will receive fifty percent (50%) of the adjustment calculated in accordance with paragraph (15)(B)4. Safety net hospitals will continue to receive one hundred percent (100%) of the adjustment calculated in accordance with paragraph (15)(B)4.

C. Effective July 1, 2011, the utilization adjustment will no longer apply to any hospital other than safety net hospitals as defined in subsection (6)(B), children's hospitals as defined in subsection (2)(S), and specialty pediatric hospitals as defined in subsection (2)(P). Children's hospitals and specialty pediatric hospitals will continue to receive fifty percent (50%) of the adjustment calculated in accordance with paragraph (15)(B)4. Safety net hospitals will continue to receive one hundred percent (100%) of the adjustment calculated in accordance with paragraph (15)(B)4.;

5. The poison control cost shall reimburse the hospital for the prorated MO HealthNet managed care cost. It will be calculated by multiplying the estimated MO HealthNet share of the poison control costs by the percentage of managed care participants to total MO HealthNet participants; and

6. Prior to July 1, 2006, the costs for including out-of-state Medicaid days is calculated by subtracting the hospital's per diem rate from its trended per diem cost and multiplying this difference by the out-of-state Medicaid days from the base year cost report. Effective July 1, 2006, the costs for including out-of-state Medicaid days is calculated by subtracting the hospital's per diem rate from its trended per diem cost and multiplying this difference by the out-of-state Medicaid days as determined from the regression analysis performed using the out-of-state days from the fourth, fifth, and sixth prior year cost reports.

*AUTHORITY: sections 208.152, 208.153, [and] 208.201, **and 660.017,** RSMo 2016. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed June 21, 2018, effective*

July 1, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the ***Missouri Register****.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is amending subsection (1)(A) and adding section (22).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2019 trend factor to be applied to the inpatient and outpatient adjusted net revenues determined from the Federal Reimbursement Allowance (FRA) fiscal year cost report to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment. Additionally, this amendment establishes the FRA assessment effective July 1, 2018 at a rate of five and sixty hundredths percent (5.60%) of each hospital's inpatient and outpatient adjusted net revenues.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division (MHD) finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. An early effective date is required because the emergency amendment is necessary to establish the Federal Reimbursement Allowance (FRA) assessment rate effective for dates of service beginning July 1, 2018 in regulation in order to collect the state revenue to ensure access to hospital services for MO HealthNet participants and indigent patients at hospitals that have relied on MO HealthNet payments to meet those patients' needs. The Missouri Partnership Plan between the Centers for Medicare and Medicaid Services (CMS) and the Missouri Department of Social Services (DSS), which establishes a process whereby CMS and DSS determine the permissibility of the funding source used by Missouri to fund its share of the MO HealthNet program, is based on a state fiscal year. In order to determine the trends for State Fiscal Year (SFY) 2019, all relevant information from the necessary sources must be available to MHD. The division uses the best information available when it starts calculating the assessment so it uses the trend published in the Fourth Quarter Healthcare Cost Review publication which is generally not available until January. The division must also analyze hospital revenue data, which is not complete until near the end of the state fiscal year, in conjunction with the trend and hospital FRA funded payments to determine the appropriate level of assessment. Without this information, the trends cannot be determined. Therefore, due to timing of the receipt of this information and the necessary July 1, 2018 effective date, an emergency regulation is necessary. The MHD also finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, hospitals will be over-assessed causing a financial strain on Missouri hospitals which serve approximately nine hundred seventy-one thousand (971,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health, safety, and welfare of MO HealthNet participants and uninsured individuals in need of medical treatment. This emergency amendment will result in an increase of FRA Assessment of approximately $32.5 million to the hospital industry. A proposed amendment, which covers the same material, will be published in the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The MHD believes this emergency amendment to be fair to all interested persons and parties under the circumstances. The emergency amendment was filed June 21, 2018, becomes effective July 1, 2018, and expires February 28, 2019.*

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

(A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. The Medicare/Medicaid Cost Report version 2552-96 (CMS 2552-96) shall be used for fiscal years ending on or after September 30, 1996. The Medicare/Medicaid Cost Report version 2552-10 (CMS 2552-10) shall be used for fiscal years beginning on and after May 1, 2010. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve- (12-) month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve- (12-) month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve- (12-) month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve- (12-) month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals. The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3 from CMS 2552-96, or Worksheet G-2, Line 28,

Column 3 from CMS 2552-10, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6 from CMS 2552-96, or Worksheet C, Part I, Line 45, Column 6 from CMS 2552-10;

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1 from CMS 2552-96, or Worksheet G-2, Line 6, Column 1 from CMS 2552-10;

(III) "Nursing Facility Ancillary Charges" as determined from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.);

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2 from CMS 2552-96, or Worksheet G-2, Line 25, Column 2 from CMS 2552-10;

(V) "Ambulance Charges" from Worksheet C, Part I, Line 65, Column 7 from CMS 2552-96, or Worksheet C, Part I, Line 95, Column 7 from CMS 2552-10;

(VI) "Home Health Charges" from Worksheet G-2, Line 19, Column 2 from CMS 2552-96, or Worksheet G-2, Line 22, Column 2 from CMS 2552-10;

(VII) "Total Rural Health Clinic Charges" from Worksheet C, Part I, Column 7, Lines 63.50–63.59 from CMS 2552-96, or Worksheet C, Part I, Column 7, Line 88 and subsets from CMS 2552-10; and

(VIII) "Other Non-Hospital Component Charges" from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24 from CMS 2552-96, or Worksheet G-2, Lines 5, 7, 9, 21, 24, 26, and 27 from CMS 2552-10;

B. Obtain "Net Revenue" from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology;

C. "Adjusted Gross Total Charges" (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide "Net Revenue" by "Gross Total Charges"; and

(II) "Adjusted Gross Total Charges" will be multiplied by the result of part (1)(A)13.C.(I) to yield "Adjusted Net Revenue";

D. Obtain "Gross Inpatient Charges" from Worksheet G-2, Line 25, Column 1 from CMS 2552-96, or Worksheet G-2, Line 28, Column 1 from CMS 2552-10, of the most recent cost report that is available for a hospital;

E. Obtain "Gross Outpatient Charges" from Worksheet G-2, Line 25, Column 2 from CMS 2552-96, or Worksheet G-2, Line 28, Column 2 from CMS 2552-10, of the most recent cost report that is available for a hospital;

F. Total "Adjusted Net Revenue" will be allocated between "Net Inpatient Revenue" and "Net Outpatient Revenue" as follows:

(I) "Gross Inpatient Charges" will be divided by "Gross Total Charges";

(II) "Adjusted Net Revenue" will then be multiplied by the result to yield "Net Inpatient Revenue"; and

(III) The remainder will be allocated to "Net Outpatient Revenue"; and

G. The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2009 = 5.50%
(II) SFY 2009 Missouri Specific Trend = 1.50%
(III) SFY 2010 = 3.90%
(IV) SFY 2010 Missouri Specific Trend = 1.50%
(V) SFY 2011 = 3.20%
(VI) SFY 2012 = 5.33%
(VII) SFY 2013 = 4.4%
(VIII) SFY 2014 =
(a) Inpatient Adjusted Net Revenues—0%
(b) Outpatient Adjusted Net Revenues—3.70%
(IX) SFY 2015 =
(a) Inpatient Adjusted Net Revenues—0%
(b) Outpatient Adjusted Net Revenues—4.30%
(X) SFY 2016 =
(a) Inpatient Adjusted Net Revenues—0%
(b) Outpatient Adjusted Net Revenues—3.90%
(XI) SFY 2017 =
(a) Inpatient Adjusted Net Revenues—0%
(b) Outpatient Adjusted Net Revenues—4.10%
(XII) SFY 2018 =
(a) Inpatient Adjusted Net Revenues—0%
(b) Outpatient Adjusted Net Revenues—0%
(XIII) SFY 2019 =
(a) Inpatient Adjusted Net Revenues—0%
(b) Outpatient Adjusted Net Revenues—0%

14. Net operating revenue—Gross charges less bad debts, less charity care, and less contractual allowances times the trend indices listed in 13 CSR 70-15.010(3)(B).

15. Other operating revenues—The other operating revenue is total other revenue less government appropriations, less donations, and less income from investments times the trend indices listed in 13 CSR 70-15.010(3)(B).

(22) Beginning July 1, 2018, the FRA assessment shall be determined at the rate of five and sixty hundredths percent (5.60%) of each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues as set forth in paragraph (1)(A)13. The FRA assessment rate of five and sixty hundredths percent (5.60%) will be applied individually to the hospital's inpatient adjusted net revenues and outpatient adjusted net revenues. The hospital's total FRA assessment is the sum of the assessment determined from its inpatient adjusted net revenue plus the assessment determined for its outpatient adjusted net revenue.

*AUTHORITY: sections 208.201, 208.453, [and] 208.455, **and 660.017,** RSMo 2016. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed June 21, 2018, effective July 1, 2018, expires Feb. 28, 2019. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

EXECUTIVE ORDER
18-04

WHEREAS, Executive Order 17-03 was issued on January 10, 2017, by former Governor Eric R. Greitens; and

WHEREAS, Executive Order 17-03 ordered that "[n]o State Agency shall release proposed regulations for notice and comment, amend existing regulations, or adopt new regulations at any time until approved by the Office of the Governor"; and

WHEREAS, Executive Order 17-03 further ordered that "[e]very State Agency shall undertake a review of every regulation under its jurisdiction within the Code of State Regulations" and required every state agency to "take any action necessary to repeal or to cease rulemaking for any regulation" that does not meet certain criteria by June 30, 2018; and

WHEREAS, in accordance with Executive Order 17-03, state agencies have submitted numerous proposed rulemakings that require the approval of the Office of the Governor, many of which are still pending; and

WHEREAS, due to the number of bills passed this year by the legislature that are set to go into effect on August 28, 2018, many state agencies may need additional time to revise and submit proposed rulemakings in order to incorporate statutory changes; and

WHEREAS, given the June 30, 2018, deadline contained in Executive Order 17-03, more time is needed for the new administration to thoroughly review the proposed rulemakings.

NOW THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby extend the June 30, 2018, deadline contained in Section 3d of Executive Order 17-03 through September 30, 2018, for the purpose of allowing the Office of the Governor to fully review such rulemakings.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 29th day of June, 2018.

Michael L. Parson
Governor

John R. Ashcroft
Secretary of State

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

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

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

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

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

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

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

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 10—Liquefied Petroleum Gases

PROPOSED RESCISSION

2 CSR 90-10.016 Meters for Measurement—Specifications and Proving. This rule set out minimum general standards governing the design of meters used for measuring liquefied petroleum gas.

PURPOSE: This rule should be rescinded because rulemaking authority and powers to promulgate rules is under the Missouri Propane Safety Commission not the Missouri Department of Agriculture. The Missouri Propane Commission voted unanimously to rescind this rule on January 9, 2018, because it duplicates the current Weights, Measures and Consumer Protection law, which is in Chapter 413 RSMo, Standards of Weights and Measures.

AUTHORITY: section 323.020, RSMo Supp. 2008. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed June 27, 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 11—Anhydrous Ammonia

PROPOSED AMENDMENT

2 CSR 90-11.010 ANSI K61.1–19*[81]*99, Safety Requirements for the Storage and Handling of Anhydrous Ammonia. The division is deleting section (2), amending the summary and sections (1) and (3), and renumbering section (3).

PURPOSE: This proposed amendment adopts a more recent version of ANSI K61.1 and removes duplicative language.

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.

Summary: The *American National Standards Institute (ANSI), Safety Requirements for the Storage and Handling of Anhydrous Ammonia*, publication No. K61.1–19*[81]***99**, is a guideline established for authorities charged with regulating the storage, transportation and handling of anhydrous ammonia. These requirements apply to the design, construction, repair, alteration, location, installation or operation of anhydrous ammonia systems including refrigerated ammonia storage systems. However, these requirements do not apply to ammonia manufacturing plants, refrigeration plants where ammonia is used solely as a refrigerant or ammonia transportation pipelines.

(1) The rule for the Division of Weights and Measures for safety requirements for anhydrous ammonia shall be those guidelines presented in the ANSI K61.1–19**[***81]***99**, entitled *Safety Requirements for the Storage and Handling of Anhydrous Ammonia*.

[(2) Should any portion of ANSI K61.1–1981 be deemed unacceptable, rules will be promulgated within this chapter denoting and excepting those portions and adopting alternative provisions as deemed necessary by the director of the

Department of Agriculture.]

*[(3)]***(2)** Cylinders and other portable containers used in anhydrous ammonia service shall be designed, fabricated, tested, constructed, marked**,** and placarded in accordance with the United States Department of Transportation Hazardous Materials regulations contained in 49 CFR parts 100 to 185, which are herein incorporated by reference, and approved for the storage and transportation of anhydrous ammonia. *[Cylinder and other portable container valves and other fittings, or hoses attached thereto, used in anhydrous ammonia service, shall be constructed of material resistant to anhydrous ammonia and shall not be constructed of brass, copper, silver, zinc or other material subject to attack by ammonia.]* Each cylinder utilized for the storage and transportation of anhydrous ammonia shall be labeled, in a conspicuous location, with the words "ANHYDROUS AMMONIA" or "CAUTION: ANHYDROUS AMMONIA" and the UN number 1005 (UN 1005).

*AUTHORITY: section 266.355, RSMo [2000] **2016**. Original rule filed Jan. 15, 1985, effective April 11, 1985. Emergency amendment filed Nov. 17, 2003, effective Nov. 27, 2003, expired May 12, 2004. Amended: Filed Nov. 17, 2003, effective May 30, 2004. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 20—Method of Sale for Products

PROPOSED AMENDMENT

2 CSR 90-20.040 *NIST Handbook 130*, "Uniform Regulation for the Method of Sale of Commodities." The director is amending section (1) and deleting section (2).

PURPOSE: The amendment references the current NIST Handbook 130-2018 Edition and makes a non-substantive change to update division name.

(1) The rule for the Division of Weights *[and]***,** Measures **and Consumer Protection** for method of sale of commodities *[shall]* incorporate**s** by reference the section of the *NIST Handbook 130*, *[2006]* **2018** edition, entitled "Regulation for the Method of Sale of Commodities," except for section 2.20 related to gasoline-oxygenate blends. *NIST Handbook 130*, *[2006]* **2018** Edition, is published by the Superintendent of Documents, U.S. Government Printing Office, October 2005. A copy of this material can be *[obtained from the U.S. Government Printing Office, Stop SSPO, Washington, DC 20402-0001, Internet: http://bookstore.gpo.gov, Phone: (202) 512-1800, Fax: (202) 512-2104]* **free of charge online at NIST.gov or a hard copy may be purchased from the National Conference of Weights and Measures at NCWM.net**. This regulation does not include any later amendments or additions to *NIST Handbook 130*.

[(2) Should any portion of the regulation of method of sale of commodities as defined in Handbook 130 be deemed unacceptable, rules will be promulgated within this chapter denoting and excepting those portions, and adopting alternative provisions as deemed necessary by the director of the Department of Agriculture.]

*AUTHORITY: section 413.065, RSMo [Supp. 2005] **2016**. Original rule filed May 9, 1984, effective Aug. 11, 1984. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 21—Weighing and Measuring Devices

PROPOSED AMENDMENT

2 CSR 90-21.010 Registration of *[Servicemen] Servicepersons and Service Agencies*. The director is amending the rule, deleting sections (1)–(13) and form, and adding new sections (1)–(5).

PURPOSE: This amendment changes the rule to be more concise and easier for Registered Servicepersons and Service Agencies to understand. It includes a reference to the national standard to provide uniformity among neighboring states.

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) For identification purposes in this chapter, the Weights and Measures Division, Missouri Department of Agriculture, in this chapter shall be referred to as a publication of the division.

(2) It shall be the policy of the division to accept voluntary registration of an individual who provides acceptable evidence that s/he is fully qualified to install, service, repair or recondition a commercial weighing or measuring device; has

a thorough working knowledge of all appropriate weights and measures laws, orders and rules; and has possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. This policy in no way shall preclude or limit the right and privilege of any qualified individual or agency not registered with the division to install, service, repair or recondition a commercial weighing or measuring device.

(3) The term registered serviceman shall be construed to mean any individual who, for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device and who voluntarily registers him/herself as such with the division.

(4) The term commercial weighing and measuring device shall be construed to include any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption, purchased, offered or submitted for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure and also shall include any accessory attached to or used in connection with a commercial weighing or measuring device when that accessory is so designed or installed that its operation affects, or may affect the accuracy of the device.

(5) The division may enter into an informal reciprocity agreement with any other state or states that has or have similar voluntary registration policies. Under this agreement, the registered servicemen of the states party to the reciprocal agreement are granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to the agreement. The division may issue a list of all reciprocal states.

(6) An individual may apply for voluntary registration to service weighing devices or measuring devices on an application form supplied by the division. The form, duly signed and witnessed, shall include certification by the applicant that the individual is fully qualified to install service, repair or recondition whatever devices for the service of which competence is being registered; has in possession or available for use all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders and rules. An applicant also shall submit appropriate evidence or references as to qualifications and a test based on the NIST Handbook 44, and Missouri law will be administered by the division to further evaluate knowledge. The applicant must possess a current copy of the NIST Handbook 44.

(7) Upon receipt and acceptance of a properly executed application form, the division shall issue a Certificate of Registration, to the applicant including an assigned registration number, which shall remain effective for two (2) years from date of issue.

(8) A bearer of a Certificate of Registration shall have the authority to remove an official rejection tag or mark placed by an authorized representative of the Division of Weights and Measures on those weighing or measuring devices for which they have been certified as fully qualified to install, service, repair or recondition; place in service, until that time an official examination can be made, a weighing or measuring device that has been officially rejected; and placed in service, until that time an official examination can be made, a new or used weighing or measuring device.

(9) The division shall furnish each registered serviceman with a supply of report forms to be known as Placing in Service Reports. These forms shall be executed in triplicate, shall include the assigned registration number and shall be signed by a registered serviceman for each rejected device restored to service and for each newly installed device placed in service. Within twenty-four (24) hours after a device is restored to service or placed in service, the original of the properly executed Placing in Service Report, a copy of the test report and the rejection tag shall be mailed to the Weights and Measures Division, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65102. The duplicate copy of the report shall be handed to the owner or operator of the devices and the triplicate copy of the report shall be retained by the registered serviceman.

(10) A registered serviceman shall submit, at least biennially to the division, for examination and certification, any standards and testing equipment that are used or are to be used in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. In servicing commercial weighing or measuring devices, a registered serviceman shall not use any standards or testing equipment that have not been certified by the division. Testing of standards may be waived by the director if proof of calibration is supplied from a reciprocal state or a NIST/National Voluntary Laboratory Accredition Program (NVLAP)-approved industry laboratory.

(11) The division, for good cause, after careful consideration and investigation, may suspend or revoke a Certificate of Registration.

(12) The division shall publish from time-to-time as deemed appropriate, and may supply upon request, a list of registered servicemen.

(13) If any provision of these rules is declared invalid, the validity of the remainder of these rules shall not be affected.]

(1) The rule for the Division of Weights, Measures and Consumer Protection for Voluntary Registration of Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices shall incorporate by reference the section of the 2018 edition of *NIST Handbook 130*, entitled "Uniform Regulation for the Voluntary Registration of Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices".

(2) Registration Fee. There is no registration fee for Servicepersons and Registered Service Agencies.

(3) Placed in Service Report. Within twenty-four (24) hours after a device is restored to service or placed in service, the original of the properly executed Placed in Service Report, together with any official rejection tag removed from the device, shall be forwarded to MDA – Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102-0630 or faxed to 573-751-0281.

(4) Certificate of Registration Exception. The "Certificate of Registration" will expire two (2) years from the date of issuance.

(5) *NIST Handbook 130*, 2018 Edition, is published by the

Superintendent of Documents, U.S. Government Printing Office, and is available free of charge online at NIST.gov or a hard copy may be purchased from the National Conference on Weights and Measures at NCWM.net.

*AUTHORITY: section 413.065, RSMo [1994] **2016**. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 22—Packaging and Labeling

PROPOSED AMENDMENT

2 CSR 90-22.140 *NIST Handbook 130,* "Uniform Packaging and Labeling Regulation." The director is amending section (1) and deleting section (2).

PURPOSE: The amendment references the current NIST Handbook 130-2018 Edition and makes a non-substantive change to update division name.

(1) The rule for the Division of Weights *[and]***,** Measures **and Consumer Protection** for packaging and labeling shall incorporate by reference the section of the *[2006]* **2018** edition of *NIST Handbook 130,* entitled "Uniform Packaging and Labeling Regulation." *NIST Handbook 130, [2006]* **2018** Edition, is published by the Superintendent of Documents, U.S. Government Printing Office*[, October 2005]*. A copy of this material can be obtained *[from the U.S. Government Printing Office, Stop SSPO, Washington, DC 20402-0001, Internet: http:/bookstore.gpo.gov, Phone (202) 512-1800, Fax: (202) 512-2104]* **free of charge online at NIST.gov or a hard copy may be purchased from the National Conference of Weights and Measures at NCWM.net**. This regulation does not include any later amendments or additions to *NIST Handbook 130*.

[(2) Should any portion of the packaging and labeling regulation be deemed unacceptable, rules will be promulgated within this chapter denoting and excepting those portions and adopting alternative provisions as deemed necessary by the director of the Department of Agriculture.]

*AUTHORITY: section 413.065, RSMo [Supp. 2005] **2016**. Original rule filed May 9, 1984, effective Sept. 14, 1984. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 23—Inspection of Packaged Commodities

PROPOSED AMENDMENT

2 CSR 90-23.010 *NIST Handbook 133,* Technical Procedures and Methods for Measuring and Inspecting Packages or Amounts of Commodities. The director is amending section (1) and deleting section (2).

PURPOSE: The amendments to this rule are to reference the current NIST Handbook 133-2018 Edition and makes a non-substantive change to update division name.

(1) The technical procedures and methods used by the Division of Weights *[and]***,** Measures **and Consumer Protection** for measuring and inspecting packages or amounts of commodities kept, offered, exposed for sale, sold or in the process of delivery, shall be those procedures and methods described and specified in the *National Institute of Standards and Technology (NIST) Handbook 133, Checking the Net Contents of Packaged Goods, [Fourth Edition (January 2005)]* **2018 Edition,** as incorporated by reference in this rule. *NIST Handbook 133*, *[2005]* **2018** Edition, is published by the Superintendent of Documents, U.S. Government Printing Office*[, December 2004]*. A copy of this material can be obtained *[from the U.S. Government Printing Office, Stop SSPO, Washington, DC 20402-0001, Internet: http://bookstore.gpo.gov, Phone: (202) 512-1800, Fax: (202) 512-2104]* **free of charge online at NIST.gov or a hard copy may be purchased from the National Conference of Weights and Measures at NCWM.net**. This regulation does not include any later amendments or additions to *NIST Handbook 133*.

[(2) The director of the Department of Agriculture or a designated subordinate shall amend this rule as each new addition, amendment or revision of Handbook 133 is published and becomes available. Should any portion of Handbook 133 be deemed unacceptable, rules will be promulgated within this chapter denoting and excepting those portions and adopting alternative provisions as deemed necessary by the director of the Department of Agriculture.]

*AUTHORITY: section 413.065, RSMo [Supp. 2005] **2016**. Original rule filed Sept. 14, 1981, effective Dec. 15, 1981. Amended: Filed Sept. 12, 2002, effective March 30, 2003. Amended: Filed Dec. 15, 2005, effective June 30, 2006. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 25—Price Verification

PROPOSED AMENDMENT

2 CSR 90-25.010 Price Verification Procedures. The director is amending section (1) and deleting section (2).

PURPOSE: This rule is amended to reference the current NIST Handbook 130-2018 Edition and makes a non-substantive change to update division name.

(1) The Division of Weights *[and]***,** Measures **and Consumer Protection** shall follow the examination procedure for price verification incorporated by reference in the section of *NIST Handbook 130*, *[2006]* **2018** edition, entitled "Examination Procedure for Price Verification.*"* *NIST Handbook 130, [2006]* **2018** Edition, is published by the Superintendent of Documents, U.S. Government Printing Office*[, October 2005]*. A copy of this material can be obtained *[from the U.S. Government Printing Office, Stop SSPO, Washington, DC 20402-0001[, Internet: http:/bookstore.gpo.gov, Phone (202) 512-1800, Fax: (202) 512-2104]* **free of charge online at NIST.gov or a hard copy may be purchased from the National Conference on Weights and Measures at NCWM.net**. This regulation does not include any later amendments or additions to *NIST Handbook 130*.

[(2) Should any portion of the examination procedure for price verification as defined in NIST Handbook 130 be deemed unacceptable, rules will be promulgated within this chapter denoting and excepting those portions, and adopting alternative procedures as deemed necessary by the director of the Department of Agriculture.]

*AUTHORITY: section 413.065, RSMo [Supp. 2005] **2016**. Original rule filed Aug. 13, 1996, effective Feb. 28, 1997. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 30—Petroleum Inspection

PROPOSED AMENDMENT

2 CSR 90-30.050 Inspection of Premises. The director proposes to delete sections (7)–(11), (15), (17), (21), and (25) and amend and renumber remaining sections.

PURPOSE: This rule is amended to remove obsolete or redundant language already in the NFPA 30 and 30-A and make non-substantial changes to the division name.

[(7) All storage containers, valves, piping, pumps and associated equipment shall be kept free of leaks.

(8) Each storage container shall have the product it contains identified clearly and conspicuously on the container.

(9) All electrical equipment shall comply with NFPA Manual No. 70 entitled National Electrical Code, 1996 Edition.

(10) Each loading and unloading connection to petroleum storage shall be identified with the petroleum product for which it is to be used.

(11) All tanks storing products regulated by Chapter 414, RSMo shall meet the requirements of NFPA Manual No. 30 entitled Flammable and Combustible Liquids Code, 1996 Edition.]

*[(12)]***(7)** The fencing requirement contained in sections 2-1.3 and 2-4.7.1 of the 1996 Edition of NFPA Manual No. 30A shall not apply.

*[(13)]***(8)** Section 2-4.2.1 contained in the 1996 Edition of the NFPA Manual No. 30A may be amended by the director if justification for the need is provided in writing and the level of safety to public and property will not be diminished.

*[(14)]***(9)** After the effective date of this rule, the provisions of section 2-4.2.2, relating to aboveground storage tank distance requirements, contained in the 1996 Edition of NFPA Manual No. 30A shall apply only to new locations and those existing locations that—

(A) Install aboveground storage tanks in place of underground storage tanks;

(B) Remove and replace all aboveground storage tanks, piping**,** and dispensing devices;

(C) Replace any existing aboveground storage tanks with one of a larger capacity; and

(D) Install additional aboveground tanks.

[(15) Effective July 1, 2000, tank gauging systems incorporating external plastic sight tube gauges cannot be utilized for gauging tank volume.]

*[(16)]***(10)** All aboveground storage tanks installed and connected together, utilizing a common piping system or manifold, shall be installed with each tank top level with all other tank tops to prevent any overfilled tank condition. When tanks are manifolded or piped together, the total capacity of all tanks shall be considered as a single tank when calculating the capacity of the secondary containment facility.

[(17) Aboveground storage tanks shall not be installed or stacked above any aboveground or underground storage tank.]

*[(18)]***(11)** Storage tanks of double wall construction are not acceptable for use aboveground in lieu of secondary containment by diking or remote impounding unless the tanks meet the requirements of NFPA 30A, 1996 Edition, section 2-4.5, and are equipped with automatic tank gauging, overfill protection and interstitial monitoring. Section 2-3.4.1, exception (2), contained in the 1996 Edition of NFPA 30 shall not apply.

*[(19)]***(12)** Aboveground storage tanks shall not be installed under any electrical lines or transformers. All aboveground storage tanks shall maintain a minimum horizontal distance of ten feet (10') from any overhead power line or transformer.

*[(20)]***(13)** All aboveground storage tanks utilizing compartments and storing different classes of products shall be constructed with a double wall center bulkhead with means of interstitial monitoring. This may be accomplished using an interstitial drain which must be kept closed at all times except for draining condensate or checking for leakage or failure of the bulkhead. Any liquid that is drained from the interstitial space, may be considered a hazardous waste, and must be disposed of in a manner that is in compliance with the Department of Natural Resources regulations pertaining to such liquids.

[(21) Any aboveground storage tank utilizing riveted construction, that has been determined by inspection, by the Department of Agriculture, to have extensive corrosion of the tank shell or seepage or leakage from any portion of the tank shell or tank seams, shall be removed from service and disposed of in a safe manner. All other aboveground storage tanks utilizing riveted construction shall be removed from service on or before December 31, 2005, and disposed of in a manner that is safe to public, property and the environment.]

*[(22)]***(14)** The practice of switching the use of a storage tank from heating oil or kerosene to gasoline and from gasoline to heating oil or kerosene is prohibited (i.e., racing fuel to kerosene). Tank use is limited to a single product.

*[(23)]***(15)** Tanks storing different classes of petroleum products (i.e., gasoline a class I or kerosene and diesel fuel a class II) shall not be piped or connected together.

*[(24)]***(16)** Aboveground storage tanks that are not being used, and have been out of service for six (6) months or more, shall be emptied, cleaned of product and shall be removed from the secondary containment facilities.

[(25) Tanks manufactured for transportation purposes, such as tank wagon and transport tanks, shall not be utilized for fixed storage of products regulated by Chapter 414, RSMo. (Note: Tanks manufactured for underground use are also prohibited for above-ground storage tank use.)]

*[(26)]***(17)** Aboveground storage tanks storing alcohols, fuel blending components or additives for motor fuels shall meet the requirements as contained in the NFPA Manuals 30 and 30A, 1996 Editions and the requirements contained in 2 CSR 90-30.050.

*[(27)]***(18)** Each aboveground storage tank shall meet the requirements of the 1996 Edition of NFPA 30A, section 2-4.6.1. An exception may be made for the ninety-five percent (95%) stop-fill requirement if the owner and/or operator of the tank can demonstrate there is adequate protection for the tank to prevent an overfill situation from occurring. Tanks of two thousand (2,000) gallons capacity or less, that are filled from fuel delivery vehicles by hose nozzle, and utilize a manual gaging method, such as a gage stick to determine the tank outage and volume of liquid that can be safely delivered into the tank, are exempt from the requirements of NFPA 30A, section 2-4.6.1. If this method is utilized, the delivery truck operator/driver shall be in attendance and manually operate the delivery nozzle throughout the entire delivery process to insure the tank is not overfilled.

*[(28)]***(19)** All piping, including fiberglass and other non-metallic piping, constructed of low melting point materials shall be installed in conformance with manufacturers instructions. All piping, including fiberglass and other non-metallic piping, constructed of low melting point materials in dispensing devices or open pits or sumps beneath the dispensing device shall be protected from fire exposure. Protection shall be provided by December 31, 2005 by a method that is approved by the director of the Department of Agriculture.

*[(29)]***(20)** The walls and floor of secondary containment structures shall be constructed of earth, steel, concrete**,** or solid masonry that is compatible with the specifications of the product being stored, that is liquid tight and have the ability to contain any released product until corrective action, such as the removal of released product and subsequent cleanup including soil and groundwater, can occur. Cleanup of any released product and contaminated soil, groundwater, etc., shall be in conformance with the Department of Natural Resources environmental regulations. The walls and floor of the containment structure shall be designed to support the gravity load of the storage containers and the hydrostatic loads resulting from a release within the secondary containment structure. Gravel, rock**,** or open cell block structures are not considered to be liquid tight and cannot be used.

*[(30)]***(21)** The drains in all secondary containment facilities shall remain closed at all times except when accumulated water or released/spilled product is being removed. Water or product shall not be allowed to accumulate within any secondary containment facility, this includes dikes and remote impoundments. Accumulated water and/or product within a secondary containment facility shall be removed and disposed of in manner that is in compliance with applicable rules of the Department of Natural Resources.

*[(31)]***(22)** Storage of products other than petroleum products regulated by Chapter 414, RSMo, except waste oil storage or heating oil for owners use, within a secondary containment facility is prohibited. Any waste oil or heating oil storage tank(s) located within a facility containing regulated products shall meet all of the requirements of regulated product storage tanks. Chemicals and fertilizers shall not be stored within the secondary containment facility.

*[(32)]***(23)** Walls of buildings or other structures cannot be utilized as a wall or common wall for any secondary containment facility.

*[(33)]***(24)** All remote pumping and pressurized piping systems, including aboveground storage tanks systems that produce a gravity head on the dispensing device and piping system, shall be equipped with a listed leak detection device or approved leak detection method that will provide an indication if the dispensing and piping system is not liquid tight. Leak detection may be accomplished by, but not limited to, one (1) or a combination of the following methods:

(A) Installation of an approved listed automatic line leak detector. The leak detector is to be tested at least once annually to insure its proper operation or at such time a problem with the detector is indicated. This also includes an annual pressure test performed on all piping;

(B) Annual pressure testing of the dispensing and piping system, provide and maintain an accurate inventory and reconciliation of all gallons of product received, gallons sold**,** and gallons currently on hand; and

(C) Other method(s) approved by the director.

*[(34)]***(25)** In order to prevent product loss, all locations utilized for the sale of products regulated by Chapter 414, RSMo shall provide

and maintain accurate inventory records of all gallons of product received, gallons sold and gallons currently on hand. Such records shall be made available to the director of agriculture or his/her delegated representative within forty-eight (48) hours of request.

*[(35)]***(26)** All persons installing, repairing or servicing appliances, equipment or devices including storage tanks and piping located at any facility utilized for the sale of products regulated by Chapter 414, RSMo, shall be properly trained and experienced in the work, familiar with all safety precautions and shall install, repair**,** and service all appliances, equipment**,** and devices including storage tanks and piping in conformance with all of the requirements of Chapter 414, RSMo and the petroleum inspection rules.

*[(36)]***(27)** No person shall install, repair**,** or service any dispensing device without first having registered with the Department of Agriculture, Petroleum Inspection Program, submitting documentation of properly designed and calibrated testing equipment and proof of training and experience to perform such work. Registration may be revoked if such person does not obtain and maintain testing equipment calibration at least once every two (2) years and/or installs, repairs**,** or services any dispensing device in violation of Chapter 414, RSMo and/or any rules promulgated thereunder.

*[(37)]***(28)** Installation of equipment and devices, such as vending machines and ATMs, that may produce safety hazards by distracting the customer from the dispensing operation, limit ingress and egress to the dispensing area or from electrical components of the equipment or device, or limit visibility to vehicle refueling on islands utilized for the dispensing of petroleum products regulated by Chapter 414, RSMo is prohibited.

*AUTHORITY: section 414.142, RSMo [2000] **2016**. This rule was previously filed as 2 CSR 90-30.010. Emergency rule filed Dec. 1, 1987, effective Jan. 1, 1988, expired March 1, 1988. Original rule filed Oct. 16, 1987, effective Feb. 11, 1988. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 30—Petroleum Inspection

PROPOSED AMENDMENT

2 CSR 90-30.070 Unattended Self-Service Stations. The director is deleting sections (10)–(15) to include all subsections.

PURPOSE: The proposed amendments remove obsolete or redundant language already found in the NFPA 30-A (National Fire Code).

[(10) The owner or operator of each unattended self-service station, upon reasonable request, shall make available person(s) and keys or cards, necessary to inspect and test all measuring devices.

(11) A container or storage shall be provided by the owner or operator of each device for the storage of the fuel dispensed during the device test. The container or storage shall comply with the requirements of NFPA Manual No. 30 entitled Flammable and Combustible Liquids Code, 1996 Edition.

(12) Dispensing devices, remote pumps and hose nozzle valves must comply with 2 CSR 90-30.080 and the following rules:

(A) Hose nozzles must meet the standards of UL and—

1. Nozzles must be equipped with devices designed to retain the nozzle spout in the vehicle fill pipe while refueling (for example, spout anchor spring). These devices must be in compliance with UL or Factory Mutual (FM). The spout anchor spring shall be of the type recommended by the manufacturer of the hose nozzle valve and installed and maintained in accordance with manufacturer's recommendations;

2. A listed automatic self-closing type nozzle with a latch-open device must be installed as an integral part of the nozzle assembly with exception of marine installations which shall not have latch-open devices;

3. Hose nozzle valves shall be of the type which will close automatically, independent of the latch-open device, upon loss of pressure in the dispensing system and in which the latch-open device may only be engaged when the dispensing system is under pressure; and

4. The nozzle must be designed and maintained to cease the flow of product if the nozzle falls from the fill pipe of the motor vehicle being fueled.

(13) Remote pumps serving dispensing devices shall meet the standards of UL and the requirements contained in 2 CSR 90-30.050 (33).

(14) Dispensing devices shall meet the standards of UL and the following rules:

(A) Dispensing devices served by remote pumps shall be equipped with an emergency shut-off valve meeting the standards of UL and which shall comply with 4-3.6 of NFPA Manual No. 30A, 1996 Edition;

(B) Dispensing devices shall be bolted to their mounting surface in accordance with the manufacturer's instructions;

(C) Dispensing devices shall be mounted or protected against collision damage by means of islands, posts or an equivalent means;

(D) Dispensing devices shall be wired in accordance with Chapter 5 of NFPA Manual No. 70, 1996 Edition which is incorporated herein by reference and shall be installed and maintained in accordance with the manufacturer's recommendations; and

(E) An emergency breakaway device shall be installed on each hose at all dispensing devices available for self-service of Class I, II and III liquids. The breakaway device shall be designed to retain liquid on both sides of the breakaway point and shall be installed and maintained in accordance with the manufacturer's recommendations.

(15) Emergency electrical controls shall be provided and shall comply with the following rules:

(A) A master electrical shut-off switch or circuit breaker shall be provided at a location not less than twenty feet (20') from the nearest, nor more than one hundred feet (100') from the farthest dispensing device for unattended self-service and

shall—

1. Be visible from all unattended self-service dispensing device locations on the premises. If installation of a single switch or circuit breaker does not achieve compliance with the requirement, duplicate switches or circuit breakers shall be required;

2. Terminate electric power to all dispensers, pumps and dispenser control devices on the premises, including neutral conductors and low voltage control wiring; and

3. Be of such a type, or installed in such a way, that it may only be reset manually with a key which shall be kept in custody of the unattended service station owner or employee of the owner or, alternatively, the resetting device shall be kept in a secured area accessible only by key or other device which is kept solely in the custody of the owner or employee of the owner (Club members, card holders and other persons utilizing the station may not have access to the mechanism necessary for resetting of the master electrical controls.);

(B) In addition to the master electrical shut-off required in subsection (15)(A), additional emergency electrical controls shall be provided at each group of dispensers or pumps served by a single dispenser control device. These additional controls, at the option of the owner, may be an integral part of the dispenser control device assembly. The device, when activated, shall terminate all electrical power to all dispensing devices or pumps which are served by that dispenser control device. Stations with only one (1) island may elect to utilize only a master electrical control located at the dispenser control device meeting the requirements of subsection (15)(A);

(C) The emergency electrical controls required by this section at all times shall be identified by a sign constructed of all weather material which shall state in letters not less than one inch (1") in height, EMERGENCY SHUT-OFF SWITCH. Letters shall contrast with the background material of the sign. The sign shall be mounted in place with the bottom of the sign not less than five feet (5') above ground;

(D) Resetting the master electrical shut-off required by this section shall be accomplished only after the condition which caused it to be activated has been corrected; and

(E) Power for illumination of dispensing areas required by this section shall not be affected by activation of any of the emergency electrical controls.]

AUTHORITY: section 414.142, RSMo [Supp. 1998] 2016. Emergency rule filed Dec. 1, 1987, effective Jan. 1, 1988, expired March 1, 1988. Original rule filed Oct. 16, 1987, effective Feb. 11, 1988. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 30—Petroleum Inspection

PROPOSED AMENDMENT

2 CSR 90-30.080 Measuring Devices. The director is deleting section (8)–(15) and (17)–(18) and renumbering remaining sections.

PURPOSE: This amendment removes sections which are obsolete or redundant of NIST Handbook 44, NFPA 30 & 30-A or NEC 70.

[(8) Each retail measuring device shall display unit price and product identity on the face of the device as required in 2 CSR 90-30.040 and the current edition of NIST Handbook 44.

(9) A container or storage shall be provided by the owner or operator of the device for storage of the fuel dispensed during the device test. The container or storage must comply with the requirements of NFPA Manual No. 30, 1996 Edition which is incorporated herein by reference.

(10) Each measuring device dispensing products regulated by Chapter 414, RSMo shall be free of leaks; the dispensing hose shall be in a condition as to prevent a hazard of leaking or bursting; and electrical wiring shall meet requirements as contained in NFPA Manual No. 70, 1996 Edition which is incorporated herein by reference.

(11) Each measuring device shall be equipped with an effective vapor eliminator or other means automatic in operation to prevent the passage of vapor and air through the meter. Vent lines from the air or vapor eliminator shall be made of metal or some similar other suitable rigid material.

(12) Size of Nozzle Spout for Dispensing Motor Fuels. Each dispensing device from which gasoline or other motor fuel that contains lead or phosphorus is sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than ninety-three hundredths inch (0.93") (two and three hundred sixty-two thousandths centimeters (2.362 cm)). A gasoline or other motor fuel is considered to contain lead or phosphorus if it contains more than five hundredths (0.05) grams lead per United States gallon (thirteen thousandths (0.013) grams lead per liter) or more than five thousandths (0.005) grams phosphorus per United States gallon (thirteen ten thousandths (0.0013) per liter).

(13) Any measuring device that does not meet the requirements of this rule shall be ordered corrected, discontinued or removed.

(14) No person shall hinder or obstruct the director or his/her delegated representative in the reasonable performance of his/her duties.

(15) No person shall break, tamper with, reproduce, remove or deface any official state seal, decal, tag, lock, label, form or equipment.]

*[(16)]***(8)** If the design, construction**,** or location of any device is such as to require a testing procedure involving special equipment or accessories or an abnormal amount of labor, the equipment, accessories and labor shall be supplied by the owner or operator of the device as required by the weights *[and]***,** measures **and consumer**

protection official.

[(17) A listed rigidly anchored emergency shut-off valve (fire-impact) incorporating a fusible link or other thermally actuated device designed to close automatically in the event of severe impact or fire exposure shall be installed in accordance with the manufacturer's instructions in the supply line at the base of each island-type pump or dispenser or at the inlet of each overhead dispensing device. An emergency shut-off valve incorporating a slip joint feature shall not be used.

(18) Each hose nozzle at automotive service stations shall be equipped with a device, such as a spout anchor spring, designed to retain the nozzle spout in the vehicle fuel tank inlet while refueling.]

*AUTHORITY: section 414.142, RSMo [Supp. 1998] **2016**. This rule was previously filed as 2 CSR 90-30.020. Emergency rule filed Dec. 1, 1987, effective Jan. 1, 1988, expired March 1, 1988. Original rule filed Oct. 16, 1987, effective Feb. 11, 1988. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 30—Petroleum Inspection

PROPOSED AMENDMENT

2 CSR 90-30.090 Tank Trucks and Tank Wagons. The director is deleting subsection (1)(C) and relettering remaining subsections.

PURPOSE: This rule is amended to delete redundant language found in the NIST Handbook 44.

(1) Measuring Devices.

[(C) Each measuring device shall be equipped with an effective and operating vapor eliminator to prevent the passage of vapor and air through the device. Vent lines from the vapor eliminator shall be made of metal or similar rigid material.]

*[(D)]***(C)** No means shall be provided by which any measured liquid can be diverted from the measuring chamber of the meter or its discharge line.

*[(E)]***(D)** The director of the Department of Agriculture or his/her delegated representative at least once each year shall test and inspect the measuring devices on tank trucks and tank wagons used in the retail or wholesale dispensing of products regulated by Chapter 414, RSMo.

*[(F)]***(E)** No meter which has been condemned shall be used for commercial purposes. All condemned meters shall be conspicuously marked INACCURATE: USE PROHIBITED.

*[(G)]***(F)** Each measuring device shall be sealed with an official state security seal to be applied by the director of the Department of Agriculture or his/her delegated representative.

*[(H)]***(G)** No person, except the director or his/her delegated representative, shall duplicate the state seal of Missouri to be used for sealing or applying seals to any measuring device dispensing products regulated by Chapter 414, RSMo.

*[(I)]***(H)** No person shall break or tamper with any official state security seal without the consent of the director of the Department of Agriculture or his/her delegated representative except for the repair or replacement of this device, at which time notification is to be given to the director within five (5) days.

*[(J)]***(I)** No person shall hinder or obstruct the director or his/her delegated representative in the reasonable performance of his/her duties.

*[(K)]***(J)** If the design, construction**,** or location of any device is such as to require a testing procedure involving special equipment or accessories, or an abnormal amount of labor, the equipment, accessories**,** and labor shall be supplied by the owner or operator of the device as required by the weights *[and]***,** measures **and consumer protection** official.

*AUTHORITY: section 414.142, RSMo [Supp. 1998] **2016**. Emergency rule filed Dec. 1, 1987, effective Jan. 1, 1988, expired March 1, 1988. Original rule filed Oct. 16, 1987, effective Feb. 11, 1988. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

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

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Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 30—Petroleum Inspection

PROPOSED AMENDMENT

2 CSR 90-30.100 Terminals. The director is deleting subsections (1)(B)–(C) and section (2), relettering remaining subsections, and amending subsection (1)(F).

PURPOSE: This proposed rule is being amended to delete duplicated language in NIST Handbook 44, NFPA 30, and rule 2 CSR 90-30.050 (Inspection of Premises).

(1) Safety.

[(B) Existing plants, storage, storage equipment, buildings, structures and installations for the sale, storage, handling or use of flammable or combustible liquids at any location which is not in strict compliance with the terms of this code

may be continued in use, provided these do not constitute a distinct hazard to life or property. When the director determines that continued use will constitute a distinct hazard to life or property, s/he shall notify the owner or operator and specify reason in writing and shall order the correction, discontinuance or removal of same.

(C) New construction and new installations or major modifications made to any terminal location shall be in conformity with the provisions of the 1996 Edition of NFPA Manual No. 30.]

*[(D)]***(B)** At least once every six (6) months the director shall inspect and examine all terminal premises utilized for the sale or storage of petroleum products regulated by Chapter 414, RSMo to insure compliance with NFPA Manual No. 30, 1996 Edition.

*[(E)]***(C)** The director or his/her delegated representative shall have free access, at reasonable times, to any terminal location utilized for the sale or storage of petroleum products regulated by Chapter 414, RSMo.

*[(F)]***(D)** No person shall hinder or obstruct the director or his/her delegated representative in the reasonable performance of his/her duties. **Any measuring device which does not meet the requirements contained in the current edition of *NIST Handbook 44* shall not be used and shall be ordered corrected, discontinued from use, or removed.**

[(2) Measuring Devices.

(A) Each measuring device used in the sale of petroleum products regulated by Chapter 414, RSMo shall meet the requirements contained in the current edition of NIST Handbook 44.

(B) At least every six (6) months, the director shall test and inspect each measuring device used in the sale of petroleum products regulated by Chapter 414, RSMo.

(C) Any measuring device which does not meet the requirements contained in the current edition of NIST Handbook 44 shall not be used and shall be ordered corrected, discontinued from use or removed.

(D) If the design, construction or location of any device is such as to require a testing procedure involving special equipment or accessories or an abnormal amount of labor, the equipment, accessories and labor shall be supplied by the owner or operator of the device as required by the weights and measures official.

(E) Each measuring device used in the sale of petroleum products regulated by Chapter 414, RSMo shall be sealed with an official state security seal to be applied by the director of the Department of Agriculture or his/her delegated representative.

(F) All new construction and new installations or major modifications to existing facilities shall have installed separate product return lines from measuring devices back to storage for device testing purposes.

(G) No person shall break or tamper with any official state security seal without the consent of the director of the Department of Agriculture or his/her delegated representative, except for repair or replacement of that device, at which time notification is to be given to the director within five (5) days.

(H) No person, except the director or his/her delegated representative, shall duplicate the state seal of Missouri to be used for sealing or applying seals to any measuring device regulated by Chapter 414, RSMo.

(I) No person shall hinder or obstruct the director or his/her delegated representative in the reasonable performance of his/her duties.]

*AUTHORITY: section 414.142, RSMo [Supp. 1998] **2016**. Emergency rule filed Dec. 1, 1987, effective Jan 1, 1988, expired March 1, 1988. Original rule filed Oct. 16, 1987, effective Feb. 11, 1988. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 36—Egg Quality Program

PROPOSED AMENDMENT

2 CSR 90-36.010 Enforcement of Missouri Egg Laws. The director is amending language in section (1), deleting subsections (1)(B)–(H), relettering remaining subsections, and adding a new reference table to the new subsection (1)(B).

PURPOSE: The amendment to the rule is to remove unnecessary language that already referenced in the USDA grading manual.

(1) *[The Department of Agriculture utilizes the following standards, grades and weight classes for inspection of shell eggs.]* **Shell eggs shall meet the standards as published in the United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56 (July 20, 2000 or its revision). This document is available on the internet at www.ams.usda.gov/poultry under Publications.**

[(B) Terms Descriptive of Shell.

1. Clean—A shell that is free from foreign material and from stains or discolorations that are readily visible. An egg may be considered clean if it has only very small specks, stains, or cage marks, if such specks, stains, or cage marks are not of sufficient number or intensity to detract from the generally clean appearance of the egg. Eggs that show traces of processing oil on the shell are considered clean unless otherwise soiled.

2. Dirty—A shell that is unbroken and that has dirt or foreign material adhering to its surface, which has prominent stains, or moderate stains covering more than one-thirty second (1/32) of the shell surface if localized, or one-sixteenth (1/16) of the shell surface if scattered.

3. Practically Normal (AA or A Quality)—A shell that approximates the usual shape and that is sound and is free from thin spots. Ridges and rough areas that do not materially affect the shape and strength of the shell are permitted.

4. Abnormal (B Quality)—A shell that may be somewhat unusual or decidedly misshapen or faulty in soundness or strength or that may show pronounced ridges or thin spots.

(C) Terms Descriptive of the Air Cell.

1. Depth of the air cell (air space between shell membranes, normally in the large end of the egg)—The depth of the air cell is the distance from its top to its bottom when

the egg is held air cell upward.

2. Free air cell—An air cell that moves freely toward the uppermost point in the egg as the egg is rotated slowly.

3. Bubbly air cell—A ruptured air cell resulting in one (1) or more small separate air bubbles usually floating beneath the main air cell.

(D) Terms Descriptive of the White.

1. Clear—A white that is free from discolorations or from any foreign bodies floating in it. (Prominent Chalzas should not be confused with foreign bodies such as spots or blood clots.)

2. Firm (AA Quality)—A white that is sufficiently thick or viscous to prevent the yolk outline from being more than slightly defined or indistinctly indicated when the egg is twirled. With respect to a broken-out egg, a firm white has a Haugh unit value of seventy-two degrees Fahrenheit (72°F) or higher when measured at a temperature between forty-five degrees Fahrenheit (45°F) and sixty degrees Fahrenheit (60°F).

3. Reasonably firm (A Quality)—A white that is somewhat less thick or viscous than a firm white. A reasonably firm white permits the yolk to approach the shell more closely which results in a fairly well defined yolk outline when the egg is twirled. With respect to a broken-out egg, a reasonably firm white has a Haugh unit value of sixty degrees Fahrenheit (60°F) up to, but not including, seventy-two degrees Fahrenheit (72°F) when measured at a temperature between forty-five degrees Fahrenheit (45°F) and sixty degrees Fahrenheit (60°F).

4. Weak and watery (B Quality)—A white that is weak, thin, and generally lacking in viscosity. A weak and watery white permits the yolk to approach the shell closely, thus causing the yolk outline to appear plainly visible and dark when the egg is twirled. With respect to a broken-out egg, a weak and watery white has a Haugh unit value lower than sixty degrees Fahrenheit (60°F) when measured at a temperature between forty-five degrees Fahrenheit (45°F) and sixty degrees Fahrenheit (60°F).

5. Blood spots or meat spots—Small blood spots or meat spots (aggregating not more than one-eighth inch (1/8") in diameter) may be classified as B Quality. If larger, or showing diffusion of blood into the white surrounding a blood spot, the egg shall be classified as Loss. Blood spots shall not be due to germ development. They may be on the yolk or in the white. Meat spots may be blood spots which have lost their characteristic red color or tissue from the reproductive organs.

6. Bloody white—An egg which has blood diffused through the white. Eggs with bloody whites are classed as loss. Eggs with blood spots which show a slight diffusion into the white around the localized spot are not to be classed as bloody whites.

(E) Terms Descriptive of the Yolk.

1. Outline slightly defined (AA Quality)—A yolk outline that is indistinctly indicated and appears to blend into the surrounding white as the egg is twirled.

2. Outline fairly well defined (A Quality)—A yolk outline that is discernible but not clearly outlined as the egg is twirled.

3. Outline plainly visible (B Quality)—A yolk outline that is clearly visible as a dark shadow when the egg is twirled.

4. Enlarged and flattened (B Quality)—A yolk in which the yolk membranes and tissues have weakened and/or moisture has been absorbed from the white to such an extent that the yolk appears definitely enlarged and flat.

5. Practically free from defects (AA or A Quality)—A yolk that shows no germ development but may show other very slight defects on its surface.

6. Serious defects (B Quality)—A yolk that shows well developed spots or areas and other serious defects, such as olive yolks, which do not render the egg inedible.

7. Clearly visible germ development (B Quality)—A development of the germ spot on the yolk of a fertile egg that has progressed to a point where it is plainly visible as a definite circular area or spot with no blood in evidence.

8. Blood due to germ development—Blood caused by development of the germ in a fertile egg to the point where it is visible as definite lines or as a blood ring. Such an egg is classified as inedible.

(F) Classifying Eggs by Weight and Grade.

1. Eggs shall be classified by weight into the classes of Jumbo, Extra Large, Large, Medium, Small, and Peewee. Egg scales for accurately weighing individual eggs in ounces per dozen shall be a part of the equipment in the egg candling room.

2. Classes and weights for consumer grades for shell eggs are:

Size or weight class	Minimum net weight per dozen (ounces)	Minimum net weight 30 per dozen (pounds)	Minimum net weight for individual eggs at rate per dozen (ounces)
Jumbo	30	56	29
Extra Large	27	50 1/2	26
Large	24	45	23
Medium	21	39 1/2	20
Small	18	34	17
Peewee	15	28	- -

3. Interior egg quality specifications for these standards are based on the apparent condition of the interior contents of the egg as it is twirled before the candling light.

4. Inspectors will determine grades of eggs (AA, A, and B) by candling with a suitable single hole candling light.

(G) Grades.

1. U.S. Grade AA.

A. U.S. Consumer Grade AA (at origin) shall consist of eggs which are at least eighty-seven percent (87%) AA Quality. The maximum tolerance of thirteen percent (13%) which may be below AA Quality may consist of A or B Quality in any combination, except that within the tolerance for B Quality not more than one percent (1%) may be B Quality due to air cells over three-eighths inch (3/8"), blood spots (aggregating not more than one-eighth inch (1/8") in diameter), or serious yolk defects. Not more than five percent (5%) (seven percent (7%) for Jumbo size) Checks are permitted and not more than one-half percent (0.50%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths percent (0.30%). Other types of Loss are not permitted.

B. U.S. Consumer Grade AA (destination) shall consist of eggs which are at least seventy-two percent (72%) AA Quality. The remaining tolerance of twenty-eight percent (28%) shall consist of at least ten percent (10%) A Quality and the remainder shall be B Quality, except that within the tolerance for B Quality not more than one percent (1%) may be B Quality due to air cells over three-eighths inch (3/8"), blood spots (aggregating not more than one-eighth inch (1/8") in diameter), or serious yolk defects. Not more than seven percent (7%) (nine percent (9%) for Jumbo size) Checks are permitted and not more than one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths

percent (0.30%). Other types of Loss are not permitted.

2. U.S. Grade A.

A. U.S. Consumer Grade A (at origin) shall consist of eggs which are at least eighty-seven percent (87%) A Quality or better. Within the maximum tolerance of thirteen percent (13%) which may be below A Quality, not more than one percent (1%) may be B Quality due to air cells over three-eighths inch (3/8"), blood spots (aggregating not more than one-eighth inch (1/8") in diameter), or serious yolk defects. Not more than five percent (5%) (seven percent (7%) for Jumbo size) Checks are permitted and not more than one-half percent (0.50%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths percent (0.30%). Other types of Loss are not permitted.

B. U.S. Consumer Grade A (destination) shall consist of eggs which are at least eighty-two percent (82%) A Quality or better. Within the maximum tolerance of eighteen percent (18%) which may be below A Quality, not more than one percent (1%) may be B Quality due to air cells over three-eighths inch (3/8"), blood spots (aggregating not more than one-eighth inch (1/8") in diameter), or serious yolk defects. Not more than seven percent (7%) (nine percent (9%) for Jumbo size) Checks are permitted and not more than one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths percent (0.30%). Other types of Loss are not permitted.

3. U.S. Grade B.

A. U.S. Consumer Grade B (at origin) shall consist of eggs which are at least ninety percent (90%) B Quality or better, not more than ten percent (10%) may be Checks and not more than one-half percent (0.50%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths percent (0.30%). Other types of Loss are not permitted.

B. U.S. Consumer Grade B (at destination) shall consist of eggs which are at least ninety percent (90%) B Quality or better, not more than ten percent (10%) may be Checks and not more than one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths percent (0.30%). Other types of Loss are not permitted.

4. Additional tolerances:

A. In lots of two (2) or more cases:

(I) For Grade AA—No individual case may exceed ten percent (10%) less AA Quality eggs than the minimum permitted for the lot average.

(II) For Grade A—No individual case may exceed ten percent (10%) less A Quality eggs than the minimum permitted for the lot average.

(III) For Grade B—No individual case may exceed ten percent (10%) less B Quality eggs than the minimum permitted for the lot average.

B. For Grades AA, A, and B, no lot shall be rejected or downgraded due to the quality of a single egg except for Loss other than blood or meat spots.

Table I—Summary of U.S. Consumer Grades for Shell Eggs

U.S. Consumer Grade (origin)	*Quality required*	*Tolerance permitted*	
		Percent	*Quality*
Grade AA	*87 percent AA*	*Up to 13* *Not over 5*	*A or B* *Checks*
Grade A	*87 percent A or better*	*Up to 13* *Not over 5*	*B* *Checks*
Grade B	*90 percent B or better*	*Not over 10*	*Checks*
U.S. Consumer Grade (destination)	*Quality Required*	*Tolerance permitted*	
		Percent	*Quality*
Grade AA	*72 percent AA*	*Up to 28* *Not over 7*	*A or B* *Checks*
Grade A	*82 percent A or better*	*Up to 18* *Not over 7*	*B* *Checks*
Grade B	*90 percent B or better*	*Not over 10*	*Checks*

[1] In lots of two or more cases, see Table II of this section for tolerances for an individual case within a lot.

[2] For the U.S. Consumer grades (at origin), a tolerance of 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

[3] For the U.S. Consumer grades (destination), a tolerance of 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

[4] For U.S. Grade AA at destination, at least 10 percent must be A quality or better.

[5] For U.S. Grade AA and A at origin and destination within the tolerances permitted for B quality, not more than 1 percent may be B quality due to air cells over 3/8 inch, blood spots (aggregating not more than 1/8 inch in diameter), or serious yolk defects.

[6] For U.S. Grades AA and A Jumbo size eggs, the tolerance for Checks at origin and destination is 7 percent and 9 percent, respectively.

Table II—Tolerance for Individual Case Within a Lot

U.S. Consumer Grade	*Case Quality*	*Origin (percent)*	*Destination (percent)*
Grade AA	*AA (min)*	*77*	*62*
	A or B	*13*	*28*
	Check (max)	*10*	*10*
Grade A	*A (min)*	*77*	*72*
	B	*13*	*18*
	Check (max)	*10*	*10*
Grade B	*B (min)*	*80*	*80*
	Check (max)	*20*	*20*

SUMMARY OF U.S. STANDARDS FOR QUALITY OF INDIVIDUAL SHELL EGGS Specifications for Each Quality Factor			
Quality Factor	*AA Quality*	*A Quality*	*B Quality*
Shell	*Clean Unbroken Practically normal*	*Clean Unbroken Practically normal*	*Clean to slightly stained* Unbroken Abnormal*
Air Cell	*1/8 inch or less in depth Unlimited movement and free or bubbly*	*3/16 inch or less in depth Unlimited movement and free or bubbly*	*Over 3/16 inch in depth Unlimited movement and free or bubbly*
White	*Clear Firm*	*Clear Reasonably firm*	*Weak and Watery Small blood and meat spots present***
Yolk	*Outline slightly defined Practically free from defects*	*Outline fairly well defined Practically free from defects*	*Outline plainly visible Enlarged and flattened Clearly visible germ development but not blood Other serous defects*
For eggs with dirty or broken shells, the standards of quality provide two additional qualities. They are:			
Dirty		*Checks*	
Unbroken. Adhering dirt or foreign material, prominent stains, moderate stained areas in excess of B Quality.		*Broken or cracked shell but membranes intact, not leaking.****	
** Moderately stained areas permitted (1/32 of surface in localized, or 1/16 if scattered). ** If they are small (aggregating not more than 1/8 inch in diameter). *** Leaker has broken or cracked shell membranes, and contents leaking or free to leak.]*			

*[(H)]***(B)** Basis of Grading Service (Sampling).

1. Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to the determination of the quality of products shall be on the basis of the United States Standards, Grades, and Weights Classes. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the applicant and such service, when approved by the administrator, shall be rendered on the basis of such specifications. The supervision of packaging shall be in accordance with such instructions as may be approved or issued by the administrator.

2. Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of cases as indicated in the following table. A minimum of one hundred (100) eggs shall be examined per sample case. For lots which consist of less than one (1) case, a minimum of fifty (50) eggs shall be examined. If the lot consists of less than fifty (50) eggs, all eggs will be examined.

Minimum Number of Cases Comprising a Representative Sample	
Cases in Lot	**Cases in Sample**
1 case	1
2 to 10, inclusive	2
11 to 25, inclusive	3
26 to 50, inclusive	4
51 to 100, inclusive	5
101 to 200, inclusive	8
201 to 300, inclusive	11
301 to 400, inclusive	13
401 to 500, inclusive	14
501 to 600, inclusive	16

For each additional fifty (50) cases, or fraction thereof, in excess of six hundred (600) cases, one (1) additional case shall be included in the sample.

*[(I)]***(C)** Identification of Graded Eggs in Containers.

1. Eggs packaged in containers by licensed dealers for supply or sale to retailers must be identified on each container with either the name and address (city and state), or approved identification number of the dealer under whose authority the eggs were packed and the day, month and year when said eggs were graded. Either a normal dating procedure or a numerical code based on the day of the year may be used. (Example: July 1, 1966, or 182-6; July 2, 1966, or

183-6).

2. The identification shall be stamped or printed in bold legible type upon each container with letters no less than three-sixteenths inch (3/16") in height. The term container includes box, basket, carton, sack, bag, case**,** or other receptacle.

*[(J)]***(D)** Identification of Graded Eggs in Bulk. All eggs in bulk, packed in cases, graded for retail sale, must be accompanied by grading certificates bearing the name and address (city and state), or approved identification number of the dealer under whose authority the eggs were packed and the date when said eggs were graded. The identification may be stamped or printed in bold, legible type with letters no less than three-sixteenths inch (3/16") in height upon a grading certificate of strong paper approximately five inches (5") long and three inches (3") wide which shall be placed under the top flat above the first layer of eggs, or said information may be stamped or printed on the outside of the egg case.

*AUTHORITY: section 196.354, RSMo [2000] **2016**. Original rule filed April 27, 1964, effective May 7, 1964. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

PRIVATE COST: The 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 38—Unfair Milk Sales Practices Act

PROPOSED RESCISSION

2 CSR 90-38.010 Definitions. This regulation provided definitions of words or terms (except in those instances where the context clearly indicated otherwise) used in the regulation of this chapter as required by section 416.460, RSMo.

PURPOSE: The rule is being rescinded to allow processors, distributors, and retailers to set their own product prices and compete on a level playing field with other states. Consumers will also benefit from rescission of this rule due to lower prices on milk and dairy products. Milk pricing complaints filed by retail competitors are disrupting our scheduled inspections. Eliminating this burdensome regulation will allow the program to focus on other statutory mandates.

AUTHORITY: section 416.460, RSMo Supp. 1993. This rule was previously filed as 2 CSR 40-3.010. Original rule filed Nov. 26,1975, effective Dec. 10, 1975. Amended: Filed Sept. 14, 1977 effective Jan. 1, 1978. Amended: Filed July 10, 1984, effective Oct. 11, 1984. Rescinded: Filed June 27, 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 38—Unfair Milk Sales Practices Act

PROPOSED RESCISSION

2 CSR 90-38.020 Unfair Milk Sales Practices. This regulation placed prohibitions or requirements on practices done with the intent of or with the effect of unfairly diverting trade from a competitor or otherwise injuring a competitor or destroying competition or of creating a monopoly.

PURPOSE: The rule is being rescinded to allow processors, distributors, and retailers to set their own product prices and compete on a level playing field with other states. Consumers will also benefit from rescission of this rule due to lower prices on milk and dairy products. Milk pricing complaints filed by retail competitors are disrupting our scheduled inspections. Eliminating this burdensome regulation will allow the program to focus on other statutory mandates.

*AUTHORITY: section 416.460, RSMo Supp. 1993. This rule was previously filed as 2 CSR 40-3.020. Original rule filed Nov. 26, 1975, effective Dec. 10, 1975. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed June 27, 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 38—Unfair Milk Sales Practices Act

PROPOSED RESCISSION

2 CSR 90-38.030 Procedures. This rule was designed to enable the director to acquire information necessary for enforcement of the Act, and give the director the means necessary to gain price and cost information from processors, distributors and retailers of milk products.

PURPOSE: The rule is being rescinded to allow processors, distributors, and retailers to set their own product prices and compete on a level playing field with other states. Consumers will also benefit from rescission of this rule due to lower prices on milk and dairy products. Milk pricing complaints filed by retail competitors are disrupting our scheduled inspections. Eliminating this burdensome regulation will allow the program to focus on other statutory mandates.

AUTHORITY: section 416.460, RSMo Supp. 1993. This rule was previously filed as 2 CSR 40-3.030. Original rule filed Nov. 26, 1975, effective Dec. 10, 1975. Amended: Filed July 10, 1984, effective Oct. 11, 1984. Rescinded: Filed June 27, 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 these proposed rescission with Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 38—Unfair Milk Sales Practices Act

PROPOSED RESCISSION

2 CSR 90-38.040 Separability and Effective Period. This rule stated the separability of the rules and their provisions within Chapter 38 and the effective period of these rules.

PURPOSE: The rule is being rescinded to allow processors, distributors, and retailers to set their own product prices and compete on a level playing field with other states. Consumers will also benefit from rescission of this rule due to lower prices on milk and dairy products. Milk pricing complaints filed by retail competitors are disrupting our scheduled inspections. Eliminating this burdensome regulation will allow the program to focus on other statutory mandates.

AUTHORITY: section 416.460, RSMo Supp. 1997. This rule was previously filed as 2 CSR 40-3.040. Original rule filed Nov. 26, 1975, effective Dec. 10, 1975. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed June 27, 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights, Measures and Consumer Protection
Chapter 38—Unfair Milk Sales Practices Act

PROPOSED RESCISSION

2 CSR 90-38.050 Enforcement of 2 CSR 90-38.030 Stayed or Enjoined. This rule provided alternate provisions concerning price filings, volume price differentials and cost records which were filed in 1970 and upheld in 1972 by the Missouri Supreme Court, if enforcement of all or part of 2 CSR 90-38.030 is stayed or enjoined by any court in this state.

PURPOSE: The rule is being rescinded to allow processors, distributors, and retailers to set their own product prices and compete on a level playing field with other states. Consumers will also benefit from rescission of this rule due to lower prices on milk and dairy products. Milk pricing complaints filed by retail competitors are disrupting our scheduled inspections. Eliminating this burdensome regulation will allow the program to focus on other statutory mandates.

AUTHORITY: section 416.460, RSMo Supp. 1993. This rule was previously filed as 2 CSR 40-3.050. Original rule filed June 22, 1970, effective July 2, 1970. Amended: Filed July 10, 1984, effective Oct. 11, 1984. Rescinded: Filed June 27, 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 Mr. Ronald G. Hayes, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 300—Office of Special Education

PROPOSED RESCISSION

5 CSR 20-300.140 Extraordinary Cost Fund. This rule provided administrative procedures to public school districts to seek reimbursement for extraordinary cost, if any, associated with serving students with disabilities, as defined by the 1997 Amendments to Individuals with Disabilities Education Act (IDEA). This rule set forth a plan for distributing funds to public school districts which educate students whose service costs exceed five times the district's current expenditure per eligible pupil.

PURPOSE: This rule is being rescinded due to the establishment of the High Need Fund pursuant to the Individuals with Disabilities Education Act, 34 CFR Section 300.704.

AUTHORITY: section 162.975(1), RSMo Supp. 1999. This rule previously filed as 5 CSR 70-742.170. Original rule filed Aug. 8, 1997, effective March 30, 1998. Amended: Filed July 28, 2000, effective Feb. 28, 2001. Moved to 5 CSR 20-300.140, effective Aug. 16, 2011.

Rescinded: Filed June 21, 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 Elementary and Secondary Education, Attn: Stephen Barr, Assistant Commissioner, Office of Special Education, PO Box 480, Jefferson City, MO 65102-0480 or email specialeducation@dese.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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality

PROPOSED AMENDMENT

5 CSR 20-400.510 Certification Requirements for Teacher of Early Childhood Education (Birth – Grade 3). The State Board of Education is proposing to amend part (1)(B)4.B.(I) and section (2).

PURPOSE: *The amendment updates the Certification Requirements for Teacher of Early Childhood Education Birth – Grade 3.*

(1) An applicant for a Missouri certificate of license to teach Early Childhood Education (Birth – Grade 3) who possesses good moral character may be granted an initial Missouri certificate of license to teach Early Childhood Education (Birth – Grade 3) subject to the certification requirements found in 5 CSR 20-400.500 and the following additional certification requirements specific to Early Childhood Education (Birth – Grade 3):

(B) Professional Requirements. A minimum of sixty (60) semester hours of professional preparation. Competency must be demonstrated to the satisfaction of the educator preparation program for the following topics:

1. Content Planning and Delivery. Candidates are prepared with a deep knowledge of and understand the relationships among curriculum, instruction, and assessment—

A. Curriculum and Instructional Planning;

B. Instructional Strategies and Techniques in Content Area Specialty;

C. Assessment, Student Data, and Data-Based Decision-Making;

D. Strategies for Content Literacy;

E. Critical Thinking and Problem Solving;

F. English Language Learning;

2. Individual Student Needs. Candidates build a robust knowledge of learners and the learning environment—

A. Psychological Development of the Child and Adolescent;

B. Psychology/Education of the Exceptional Child;

C. Differentiated Learning;

D. Classroom Management;

E. Cultural Diversity;

F. Educational Psychology;

3. Schools and the Teaching Profession. Candidates fully understand the role of schools and schooling as well as the professional responsibilities of teachers, including a means of professional growth—

A. Consultation and Collaboration;

B. Legal/Ethical Aspects of Teaching;

4. Content Knowledge for Teaching and Teaching and Learning Strategies for the Young Child (minimum requirement of thirty (30) semester hours)—

A. Early Childhood Principles:

(I) Child Development;

(II) Play-Based and Inquiry-Based Learning;

(III) Observing and Assessing Young Children;

(IV) Language Acquisition;

B. Methods of Teaching and Differentiated Instruction in the following integrated areas:

(I) *[Language Arts (including reading, writing, speaking, and listening);]* **Early Literacy (minimum of six (6) semester hours) to address curriculum, instruction, and assessment of—**

(a) Language acquisition;

(b) Phonological and phonemic awareness;

(c) Phonics;

(d) Vocabulary;

(e) Fluency;

(f) Comprehension; and

(g) Writing process using authentic text and purposes;

(II) Math;

(III) Health;

(IV) Science;

(V) Nutrition;

(VI) Social Studies;

(VII) Music;

(VIII) Safety;

(IX) Movement;

(X) Art; and

(XI) Drama;

5. Home-School-Community Relations (minimum requirement of six (6) semester hours)—

A. Families as Educational Partners;

B. Family Engagement; and

C. Linking Families with Community Resources;

6. Program Management (minimum requirement of six (6) semester hours)—

A. Program Administration and Management;

B. Health, Nutrition, and Safety of Young Children; and

C. Environmental Organization and Design; and

(2) The requirements of this rule shall become effective August 1, 201*[7]***9**.

*AUTHORITY: [sections 168.011, 168.405, and 168.409, RSMo 2000, and] sections 161.092, **168.011,** 168.021, 168.071, 168.081, [and] 168.400, **168.405, and 168.409,** RSMo [Supp. 2013] **2016**. Original rule filed Oct. 29, 2013, effective May 30, 2014. Amended: Filed June 22, 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 Department of Elementary and Secondary Education, Attention: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality

PROPOSED AMENDMENT

5 CSR 20-400.520 Certification Requirements for Teacher of Elementary Education (Grades 1-6). The State Board of Education is proposing to amend sections (1) and (2).

PURPOSE: *The amendment updates the Certification Requirements for Teacher of Elementary Education Grades 1-6.*

(1) An applicant for a Missouri certificate of license to teach Elementary Education (Grades 1-6) who possesses good moral character may be granted an initial Missouri certificate of license to teach Elementary Education (Grades 1-6) subject to the certification requirements found in 5 CSR 20- 400.500 and the following additional certification requirements specific to Elementary Education (Grades 1-6):

(A) General Requirements. An applicant for a Missouri certificate of license to teach who has successfully completed an educator preparation program approved by the Missouri Department of Elementary and Secondary Education (department) must comply with the following additional criteria:

1. The applicant must possess a baccalaureate degree from a regionally accredited college or university;

2. The applicant must have a recommendation from the designated official at a baccalaureate or higher-level educator preparation program approved by the department;

3. The applicant must possess an overall grade point average to meet the following specifications:

A. For applicants graduating before the spring semester of the year 2017 from a baccalaureate program approved by the department, a grade point average of 2.50 or higher on a 4.00 scale, and in the major area of study;

B. For applicants graduating in or after the spring semester of the year 2017 from a baccalaureate program approved by the department, a cumulative grade point average on a 4.00 scale of 2.75 or higher, and a grade point average of 3.00 or higher in professional education and the specific content area for which certification is sought; or

C. For applicants graduating in or after the spring semester of the year 2017 from a baccalaureate program who do not meet the appropriate cumulative grade point average requirements, competency may otherwise be demonstrated by achievement of exit assessment scores greater than or equal to a score deemed satisfactory by the State Board of Education (board) to qualify for forgiveness of a disqualifying cumulative grade point average. Such satisfactory score shall be higher than the Missouri qualifying score*[.]***;**

4. The applicant must achieve a score equal to or in excess of the qualifying score on the required exit assessment(s) as defined in 5 CSR 20-400.310 and 5 CSR 20-400.440. The official score shall be submitted to the department;

5. The applicant must complete the professional requirements as determined by the recommending educator preparation program, which may exceed these minimum requirements; and

6. Individuals who completed an educator preparation program outside of the United States shall provide documentation of completion of coursework in the following:

A. English Composition, two (2) courses, each a minimum of two (2) semester hours;

B. U.S. History, three (3) semester hours; and

C. U.S. Government, three (3) semester hours;

(B) Professional Requirements. A minimum of thirty-six (36) semester hours of professional preparation. Competency must be demonstrated to the satisfaction of the educator preparation program for the following topics:

1. Content Planning and Delivery. Candidates are prepared with a deep knowledge of and understand the relationships among curriculum, instruction, and assessment—

A. Curriculum and Instructional Planning;

B. Instructional Strategies and Techniques in Content Area Specialty;

C. Assessment, Student Data, and Data-Based Decision-Making;

D. Strategies for Content Literacy;

E. Critical Thinking and Problem Solving; and

F. English Language Learning;

2. Individual Student Needs. Candidates build a robust knowledge of learners and the learning environment—

A. Psychological Development of the Child and Adolescent;

B. Psychology/Education of the Exceptional Child;

C. Differentiated Learning;

D. Classroom Management;

E. Cultural Diversity; and

F. Education Psychology;

3. Schools and the Teaching Profession. Candidates fully understand the role of schools and schooling as well as the professional responsibilities of teachers, including a means of professional growth—

A. Consultation and Collaboration; and

B. Legal/Ethical Aspects of Teaching;

4. Content Knowledge for Teaching and Teaching and Learning Strategies (minimum requirement of twenty-one (21) semester hours)—

A. At a minimum, the teaching method competencies shall include:

(I) Elementary Literacy (minimum total of twelve (12) semester hours)—*[to include Children's Literature, English Language Arts, and Language Acquisition;]* **to address curriculum, instruction, and assessment of—**

(a) Language acquisition;

(b) Phonological and phonemic awareness;

(c) Phonics;

(d) Vocabulary;

(e) Fluency;

(f) Comprehension; and

(g) Writing process using authentic text and purposes;

(II) Mathematics (minimum of six (6) total semester hours);

(III) Science; and

(IV) Social Science;

B. Integration of the following areas:

(I) Art;

(II) Music;

(III) Health and Physical Education; and

(IV) Technology in Education; **and**

(2) The requirements of this rule shall become effective August 1, 201*[7]***9**.

AUTHORITY: [sections 168.011, 168.405, and 168.409, RSMo 2000, and] sections 161.092, ***168.011,*** *168.021, 168.071, 168.081, [and] 168.400,* ***168.405, and 168.409,*** *RSMo [Supp. 2013]* ***2016****. Original rule filed Oct. 29, 2013, effective May 30, 2014. Amended: Filed June 22, 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 Department of Elementary and Secondary Education, Attention: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality

PROPOSED AMENDMENT

5 CSR 20-400.560 Certification Requirements for Teacher of Special Education. The State Board of Education is proposing to amend part (4)(A)4.B.(I), subparagraphs (5)(A)4.A.–G, and section (8).

PURPOSE: *The amendment is to update the Certification Requirements for Teachers of Special Education.*

(4) An applicant for a Missouri certificate to teach Early Childhood Special Education (Birth – Grade 3) who possesses a baccalaureate degree from a college or university having an educator preparation program approved by the department, or from a college or university having an education program approved by the state education agency in states other than Missouri may be granted an initial Missouri certificate of license to teach Early Childhood Special Education (Birth – Grade 3) subject to the certification requirements found in 5 CSR 20-400.500 and the following additional certification requirements:

(A) Professional Requirements. A minimum of sixty (60) semester hours of professional preparation. Competency must be demonstrated to the satisfaction of the educator preparation institution for each topic listed.

1. Content Planning and Delivery. Candidates are prepared with a deep knowledge of and understand the relationship among curriculum, instruction, and assessment—

A. Curriculum and Instructional Planning;

B. Instructional Strategies and Techniques in Content Area Specialty;

C. Assessment, Student Data, and Data-Based Decision-Making;

D. Critical Thinking and Problem Solving;

E. English Language Learning; and

F. Evaluation of Abilities and Achievement (instruction in interpretation of individualized, formative, and summative assessments, eligibility procedures, and assessment to support evidence-based instruction).

2. Individual Student Needs. Candidates build a robust knowledge of learners and the learning environment—

A. Psychological Development of the Child and Adolescent;

B. Psychology/Education of the Exceptional Child;

C. Differentiated Learning;

D. Classroom Management;

E. Behavior Intervention Strategies;

F. Cultural Diversity; and

G. Educational Psychology.

3. Schools and the Teaching Profession. Candidates fully understand the role of schools and schooling as well as the professional responsibilities of teachers, including a means of professional growth—

A. Consultation and Collaboration;

B. Legal/Ethical Aspects of Teaching;

C. Tiered Systems for Supporting Instruction and Behavior;

D. Families as Educational Partners;

E. Family Engagement;

F. Linking Families with Resources; and

G. Individualized Education Plans and the Special Education Process.

4. Teaching and Supporting Learning of the Young Child—

A. Early Childhood Principles;

(I) Child Development;

(II) Play-Based and Inquiry-Based Learning;

(III) Observing and Assessing Young Children;

(IV) Language Acquisition; and

(V) Alternative and Augmentative Communication;

B. Methods of Teaching and Differentiated Instruction in the following integrated areas (minimum requirement of fifteen (15) hours):

(I) *[Language Arts (including reading, writing, speaking, and listening);]* **Early Literacy (minimum of six (6) semester hours to address curriculum, instruction, and assessment of—**

(a) Language acquisition;

(b) Phonological and phonemic awareness;

(c) Phonics;

(d) Vocabulary;

(e) Fluency;

(f) Comprehension; and

(g) Writing process using authentic text and purposes;

(II) Math;

(III) Health;

(IV) Science;

(V) Nutrition;

(VI) Social Studies;

(VII) Music;

(VIII) Safety;

(IX) Movement;

(X) Art;

(XI) Drama; and

(XII) Instructional and Assistive Technology;

5. Program Management—

A. Program Administration and Management;

B. Health, Nutrition, and Safety of Young Children; *[and]*

C. Environmental Organization and Design; **and**

D. Procedural Safeguards;

(5) An applicant for a Missouri certificate of license to teach students with Mild/Moderate Cross-Categorical Disabilities (Kindergarten – Grade 12) who possesses a baccalaureate degree in Special Education from a college or university having an educator preparation program approved by the department or from a college or university having an educator preparation program approved by the state agency in states other than Missouri may be granted an initial Missouri certificate of license to teach students with Mild/Moderate Cross-Categorical Disabilities (Kindergarten – Grade 12) subject to the certification requirements found in 5 CSR 20-400.500 and the following additional certification requirements:

(A) Professional Requirements. A minimum of sixty (60) semester hours of professional preparation. Competency must be demonstrated to the satisfaction of the educator preparation institution for each topic listed—

1. Content Planning and Delivery. Candidates are prepared with a deep knowledge of and understand the relationships among curriculum, instruction, and assessment—

A. Curriculum and Instructional Planning;

B. Instructional Strategies and Techniques in Content Area Specialty;

C. Assessment, Student Data, and Data-Based Decision-Making;

D. Strategies for Content Literacy;

E. Critical Thinking and Problem Solving;

F. English Language Learning;

G. Evaluation of Abilities and Achievement (instruction in interpretation of individualized, formative, and summative assessments, eligibility procedures, and assessment to support evidence-based instruction);

H. Transition Processes, including Career Education or Career Readiness; and

2. Individual Student Needs. Candidates build a robust knowledge of learners and the learning environment—

A. Psychological Development of the Child and Adolescent;

B. Psychology/Education of the Exceptional Child;

C. Differentiated Learning;

D. Classroom Management;

E. Behavior Intervention Strategies;

F. Cultural Diversity;

G. Educational Psychology; and

H. Language Development of the Exceptional Child;

3. Schools and the Teaching Profession. Candidates fully understand the role of schools and schooling as well as the professional responsibilities of teachers, including a means of professional growth—

A. Consultation and Collaboration;

B. Legal/Ethical Aspects of Teaching;

C. Tiered Systems for Supporting Instruction and Behavior;

D. Families as Educational Partners;

E. Family Engagement;

F. Linking Families with Resources; and

G. Individualized Education Plans and the Special Education Process;

4. Teaching and Learning Strategies—

A. Literacy *[(three (3) courses required, minimum total of nine (9) semester hours). To include coursework in reading and writing, and to include instructional interventions for students with reading deficits;]* **(a minimum total of twelve (12) semester hours) to address specialized instruction in curriculum, instruction, assessment, and intensive intervention of—**

(I) Language acquisition;

(II) Phonological and phonemic awareness;

(III) Phonics;

(IV) Vocabulary;

(V) Fluency;

(VI) Comprehension; and

(VII) Writing process using authentic text and purposes;

[B. Children's Literature;

C. Language Arts;]

*[D.]***B.** Science;

*[E.]***C.** Social Science;

*[F.]***D.** Instructional and Assistive Technology; and

*[G.]***E.** Mathematics (two (2) courses required, minimum of six (6) total semester hours) to include instructional interventions for students with mathematics deficits; and

(8) The requirements of this rule shall become effective August 1, 201*[7]***9**.

AUTHORITY: [sections 168.011, 168.405, and 168.409, RSMo 2000, and] sections 161.092, ***168.011,*** *168.021, 168.071, 168.081, [and] 168.400,* ***168.405, and 168.409,*** *RSMo [Supp. 2013]* ***2016****. Original rule filed Oct. 29, 2013, effective May 30, 2014. Amended: Filed June 21, 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 Department of Elementary and Secondary Education, Attention: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality

PROPOSED AMENDMENT

5 CSR 20-400.640 Certification Requirements for Initial Student Services Certificate. The State Board of Education is proposing to amend sections (1) and (2).

PURPOSE: This amendment updates the Initial Student Services Certificate for School Psychological Examiner (Kindergarten-Grade 12) and removes the issuance of an Initial Student Services Certificate for the area of Speech-Language Pathologist.

(1) An applicant for a Missouri Initial Student Services Certificate, valid for a period of four (4) years, may be granted an Initial Student Services Certificate subject to the certification requirements found in 5 CSR 20-400.500 and the following additional requirements:

(C) The Initial Student Services Certificate for Secondary Counselor (Grades 7-12), valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. Recommendation for certification from the designated official of an approved counselor preparation program;

2. Completion of a course in Psychology/Education of the Exceptional Child; and

3. The applicant must possess either—

A. A master's degree with a major emphasis in guidance and counseling from a college or university meeting approval of the department based upon the completion of a planned program of at least forty-two (42) semester hours of approved graduate credit in courses in guidance and counseling with at least twelve (12) semester hours focused upon guidance in secondary schools—

(I) Knowledge and/or competency in each of the following areas:

(a) Student Development—

I. Human Growth and Development;

II. Counseling Theories and Interventions;

III. Helping Relationships;

IV. Social and Cultural Diversity;

V. Appraisal of Student Growth and Achievement; and

VI. Career Development and Planning;

(b) Program Implementation—

I. Structural Components;

II. Program Components;

III. Technology; and

IV. Program, Personnel, and Results Evaluation;

(c) Professional Relationships—

I. Interpersonal Skills;

II. Collaboration;

III. Consultation Theories and Strategies; and

IV. School and Community Involvement;

(d) Leadership and Advocacy—

I. Personal Well-Being;
II. Leadership and Professionalism;
III. Student Advocacy;
IV. Program Leadership; and
V. School Climate and Culture; and
(e) Ethical and Professional Conduct—
I. Ethical Standards;
II. Professional Standards;
III. District and School Policies; and
IV. Legal Requirements; and

(II) Field and Clinical Experience (minimum of three hundred (300) clock hours)—

(a) Culminating Clinical Experience. This refers to a secondary school placement(s) in which candidates actively participate and complete class assignments and work with students as requested while under the supervision of a counselor. The candidate should experience a wide range of class settings and have opportunities to collaborate with the supervising counselor, preparation program supervisors, and/or other stakeholders working to improve student learning*[.]***;**

B. A master's degree or higher degree in education, school counseling, counseling, counseling psychology, rehabilitation counseling, or a closely-related mental health discipline; and completed additional graduate coursework specific to school counseling, as designated by the recommending certification official approved by the department; along with the following:

(I) Possess a bachelor's degree in education from a**n** educator preparation program approved by the department; or

(II) Complete a curriculum in teaching methods and practices, classroom management, and the psychology of the exceptional child, as specified by the recommending certification officer of a program approved by the department; and

(III) Field and Clinical Experience (minimum of three hundred (300) clock hours)—

(a) Culminating Clinical Experience. This refers to an elementary school placement(s) in which candidates actively participate and complete class assignments and work with students as requested while under the supervision of a counselor. The candidate should experience a wide range of class settings and have opportunities to collaborate with the supervising counselor, preparation program supervisors, and/or other stakeholders working to improve student learning;

4. Must achieve a score equal to or in excess of the qualifying score of any assessment(s) required by the board. The official score report shall be submitted to the department;

(D) The Initial Student Services Certificate for School Psychological Examiner (Kindergarten – Grade 12), valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. The applicant shall hold a valid Missouri professional teaching certificate or student services certificate of license to teach as an elementary or secondary school counselor;

[A. Counseling Psychology;
B. Educational Psychology;
C. School Counseling; and
D. Education;]

2. Completion of a master's degree from a college or university meeting approval of the Missouri Department of Elementary and Secondary Education in one (1) of the following areas:

A. Counseling Psychology;
B. Educational Psychology;
C. School Counseling; and
D. Education;

*[2.]***3.** Recommendation for certification from the designated official of an approved Psychological Examiner preparation program;

*[3.]***4**. Completion of a course in Psychology/Education of the Exceptional Child; *[and]*

5. The applicant must achieve a score equal to or in excess of the qualifying score on the required exit assessment(s) as defined in 5 CSR 20-400.310 and 5 CSR 20-400.440. The official score shall be submitted to the department; and

*[4.]***6.** A minimum of twenty-four (24) semester hours of professional preparation at the graduate level with competencies demonstrated in all areas listed to the satisfaction of an approved preparation program—

A. Course*[s]* Areas—

(I) Psychological Development: Child, Adolescent, or Developmental Psychology;

(II) Psychology of Education;

(III) Statistical Methods;

(IV) *[Mental Hygiene or]* Psychology of Personality **or Psychodiagnostics**;

(V) Psychological Tests and Measures for the Analysis of Student Performance;

(VI) Individual Intelligence Tests; and

(VII) Individual Diagnostic Assessment**s** (other than the Wechsler *[Intelligence]* Scale**s** *[for Children]* and the Stanford-Binet Intelligence Scale);

B. Competencies—

(I) **Applying** Methods and/or Techniques of Interpretation of Tests;

(II) *[Analysis]* **Analyzing** and *[Diagnosis of Learning Problems, including special consideration of low-incidence populations]* **Identifying Differences to include tiered systems for supporting instruction and behavior**;

(III) *[Interpretation of]* **Interpreting** Formal and Informal Diagnostic Assessments and *[their Application for Prescriptive Instruction]* **Applying to Guide Interventions**;

(IV) *[Utilization of]* **Utilizing** Knowledge of Classroom Environment, Psychological Principles, and *[Test Date]* **Data** to *[Plan for Management of Special Needs Children]* **assist in the development of student educational plans**;

(V) **Applying** Diagnostic Interviewing Techniques;

(VI) *[Process of Staffing]* **Collaborating and Consulting** with Other Professionals to *[Develop]* **Identify** Instructional Strategies; *[and]*

(VII) *[Administration and Interpretation of]* **Administering and Interpreting** the Wechsler *[Intelligence]* Scale**s** *[for Children and]***,** the Stanford-Binet Intelligence Scale**, and other psychoeducational instruments**; and

(VIII) Providing services consistent with ethical, legal, and professional standards; and

C. Field and Clinical Experiences (minimum of one hundred fifty (150) clock hours)—

(I) Culminating Clinical Experience. This culminating clinical experience must be in an educational *[or clinical]* setting with children and youth of school *[and the]* **age while under the supervision of a certified School Psychological Examiner or School Psychologist. The culminating clinical experience must include the** administration and interpretation of individual intelligence tests, formal and informal diagnostic procedures, and the application of the information to develop instructional strategies*[.]***;**

(E) The Initial Student Services Certificate for School Psychologist, valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. Completion of a specialist or higher degree with a major emphasis in school psychology from an approved School Psychologist preparation program;

2. Recommendation for certification from the designated official of a School Psychologist preparation program approved by the department;

3. A minimum of sixty (60) semester hours of professional preparation at the graduate level with competencies demonstrated in all areas listed to the satisfaction of an approved School Psychologist preparation program—

A. Psychological Foundations—

(I) Biological Bases of Behavior;

(II) Human Learning;

(III) Social and Cultural Bases of Behavior;

(IV) Child and Adolescent Development;

(V) Individual Differences, including human exceptionalities; and

(VI) Developmental Psychology;

B. Educational Foundations—

(I) Instructional Design; and

(II) Organization and Operations of Schools;

C. Interventions/Problem Solving—

(I) Diverse Methods and Models of Assessment;

(II) Linked to Direct Interventions; and

(III) Linked to Indirect Interventions;

D. Statistics and Research Methodologies—

(I) Statistics;

(II) Research and Evaluation Methods; and

(III) Measurement; and

E. Professional School Psychology—

(I) History and Foundations of School Psychology;

(II) Legal and Ethical Issues;

(III) Professional Issues and Standards;

(IV) Alternative Models for Delivery of School Psychological Services;

(V) Emergent Technologies; and

(VI) Roles and Functions of the School Psychologist;

4. Competencies—

A. Data-Based Decision Making and Accountability. School psychologists have knowledge of varied models and methods of assessment and data collection methods for identifying strengths and needs, developing effective services and programs, and measuring progress and outcomes. As part of a systematic and comprehensive process of effective decision making and problem solving that permeates all aspects of service delivery, school psychologists demonstrate skills to use psychological and educational assessment, data collection strategies, and technology resources and apply results to design, implement, and evaluate response to services and programs;

B. Consultation and Collaboration. School psychologists have knowledge of varied models and strategies of consultation, collaboration, and communication applicable to individuals, families, groups, and systems and methods to promote effective implementation of services. As part of a systematic and comprehensive process of effective decision making and problem solving that permeates all aspects of service delivery, school psychologists demonstrate skills to consult, collaborate, and communicate effectively with others;

C. Interventions and Instructional Support to Develop Academic Skills. School psychologists have knowledge of biological, cultural, and social influences on academic skills; human learning, cognitive, and developmental processes; and evidence-based curricula and instructional strategies. School psychologists, in collaboration with others, demonstrate skills to use assessment and data collection methods and to implement and evaluate services that support cognitive and academic skills;

D. Interventions and Mental Health Services to Develop Social and Life Skills. School psychologists have knowledge of biological, cultural, developmental, and social influences on behavior and mental health, behavioral and emotional impacts on learning and life skills, and evidence-based strategies to promote social–emotional functioning and mental health. School psychologists, in collaboration with others, demonstrate skills to use assessment and data-collection methods and to implement and evaluate services that support socialization, learning, and mental health;

E. School-Wide Practices to Promote Learning. School psychologists have knowledge of school and systems structure, organization, and theory; general and special education; technology resources; and evidence-based school practices that promote learning and mental health. School psychologists, in collaboration with others, demonstrate skills to develop and implement practices and strategies to create and maintain effective and supportive learning environments for children and others;

F. Preventive and Responsive Services. School psychologists have knowledge of principles and research related to resilience and risk factors in learning and mental health, services in schools and communities to support multi-tiered prevention, and evidence-based strategies for effective crisis response. School psychologists, in collaboration with others, demonstrate skills to promote services that enhance learning, mental health, safety, and physical well-being through protective and adaptive factors and to implement effective crisis preparation, response, and recovery;

G. Family–School Collaboration Services. School psychologists have knowledge of principles and research related to family systems, strengths, needs, and culture; evidence-based strategies to support family influences on children's learning and mental health; and strategies to develop collaboration between families and schools. School psychologists, in collaboration with others, demonstrate skills to design, implement, and evaluate services that respond to culture and context and facilitate family and school partnerships and interactions with community agencies for enhancement of academic and social–behavioral outcomes for children;

H. Diversity in Development and Learning. School psychologists have knowledge of individual diversity factors for children, families, and schools, including factors related to culture, context, and individual and role differences; and evidence-based strategies to enhance services and address potential influences related to diversity. School psychologists demonstrate skills to provide effective professional services that promote effective functioning for individuals, families, and schools with diverse characteristics, cultures, and backgrounds and across multiple contexts, with recognition that an understanding and respect for diversity in development and learning and advocacy for social justice are foundations for all aspects of service delivery;

I. Research and Program Evaluation. School psychologists have knowledge of research design, statistics, measurement, varied data collection and analysis techniques, and program evaluation sufficient for understanding research and interpreting data in applied settings. School psychologists demonstrate skills to evaluate and apply research as a foundation for service delivery and, in collaboration with others, use various techniques and technology resources for data collection, measurement, and analysis to support effective practices at the individual, group, and/or systems levels;

J. Legal, Ethical, and Professional Practice. School psychologists have knowledge of the history and foundations of school psychology; multiple service models and methods; ethical, legal, and professional standards; and other factors related to professional identity and effective practice as school psychologists. School psychologists demonstrate skills to provide services consistent with ethical, legal, and professional standards; engage in responsive ethical and professional decision-making; collaborate with other professionals; and apply professional work characteristics needed for effective practice as school psychologists, including respect for human diversity and social justice, communication skills, effective interpersonal skills, responsibility, adaptability, initiative, dependability, and technology skills; and

K. Information and Technology. Demonstrate an understanding of information sources and technology relevant to their work;

5. The applicant must achieve a score equal to or in excess of the qualifying score on the required exit assessment(s) as defined in 5 CSR 20-400.310 and 5 CSR 20-400.440. The official score shall be submitted to the department; and

6. Field and Clinical Experiences (minimum of one (1) year or one thousand two hundred (1,200) clock hours)—

A. Culminating Clinical Experience. This culminating clinical experience must be a planned program of experiences and supervised internship designed to achieve these competencies as part of an approved graduate degree program in school psychology. At least

half of the internship **must be** completed in an educational setting. This internship experience will include opportunities to demonstrate skills learned in all coursework*[; and]***.**

[(F) The Initial Student Services Certificate for Speech-Language Pathologist (Birth - Grade 12), valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. Professional Requirements—

A. Possession of a master's or higher degree in Speech-Language Pathology from an accredited college or university; and

B. Possession of a valid, unencumbered, undisciplined Missouri license in Speech-Language Pathology from the Missouri Board of Registration for the Healing Arts.]

(2) The requirements of this rule shall become effective August 1, 201*[7]***9**.

AUTHORITY: [sections 168.011, 168.405, and 168.409, RSMo 2000, and] sections 161.092, ***168.011,*** *168.021, 168.071, 168.081, [and] 168.400,* ***168.405, and 168.409,*** *RSMo [Supp. 2013]* ***2016****. Original rule filed Oct. 29, 2013, effective May 30, 2014. Amended: Filed June 22, 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 Department of Elementary and Secondary Education, Attention: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email to educatorquality@dese.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 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 2—Student Financial Assistance Program

PROPOSED RESCISSION

6 CSR 10-2.070 Missouri Prospective Teacher Loan Program. This rule provided for the administration of the Missouri Prospective Teacher Loan Program.

PURPOSE: This rule is being rescinded as its authorizing statute was repealed.

AUTHORITY: sections 168.550–168.595, RSMo 1995. Original rule filed Jan. 11, 1986, effective June 12, 1986. Rescinded: Filed June 19, 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 Kelli Reed, Missouri Department of Higher Education, PO Box 1469, Jefferson City, Missouri 65102-1469 or kelli.reed@dhe.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 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 8—Dwight D. Eisenhower Mathematics and Science Education Act

PROPOSED RESCISSION

6 CSR 10-8.010 General Provisions. This rule provided for the general provisions governing programs operated by institutions of higher education under the Dwight D. Eisenhower Mathematics and Science Education Act of 1988.

PURPOSE: This rule is being rescinded as the federal program that necessitated it has expired.

AUTHORITY: section 173.050, RSMo Supp. 1990. Original rule filed Jan. 3, 1992, effective May 14, 1992. Rescinded: Filed June 19, 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 Kelli Reed, Missouri Department of Higher Education, PO Box 1469, Jefferson City, Missouri 65102-1469 or kelli.reed@dhe.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 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 8—Dwight D. Eisenhower Mathematics and Science Education Act

PROPOSED RESCISSION

6 CSR 10-8.020 Administration and Operation of Program. This rule established the policies and procedures for administration of the Dwight D. Eisenhower Mathematics and Science Education Act by the Coordinating Board for Higher Education and under which institutions of higher education could apply for federal assistance under that Act.

PURPOSE: This rule is being rescinded as the federal program that necessitated it has expired.

AUTHORITY: section 173.050, RSMo Supp. 1990. Original rule filed Jan. 3, 1992, effective May 14, 1992. Rescinded: Filed June 19, 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 Kelli Reed, Missouri Department of Higher Education, PO Box 1469, Jefferson City, Missouri 65102-1469 or kelli.reed@dhe.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 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 1—Organization

PROPOSED AMENDMENT

8 CSR 30-1.010 Organization of the Division of Labor Standards. The division proposes to amend the original purpose statement of the rule.

PURPOSE: This amendment serves to reduce unnecessary restrictive language in the purpose of this regulation.

*PURPOSE: This rule describes the organization of the Division of Labor Standards as [required by] **pursuant to** section 536.023, RSMo [2000] **2016**.*

AUTHORITY: Omnibus State Reorganization Act of 1974, section 8, paragraph 5. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed Oct. 8, 2003, effective April 30, 2004. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 2—Mining Rules

PROPOSED AMENDMENT

8 CSR 30-2.010 Definitions. The division proposes to amend section (1).

PURPOSE: This amendment serves to reduce unnecessary restrictive language in section (1) of this regulation.

(1) Active workings means any place in any mine where miners *[are]* normally *[required to]* work or travel.

*AUTHORITY: sections 286.060 and 293.630, RSMo [1986] **2016**. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 2—Mining Rules

PROPOSED AMENDMENT

8 CSR 30-2.020 Standard Practices for Safety and Operation. The division proposes to amend section (1); delete sections (3), (6), (9), (20), (21), (30), (37), (40), (42), (45), (71), (72), (89), (91), (107), (112), (117), (119), (120), (138), (139), (159), (177), (180), (192), (194), (195), (222), (224), (229), (230), and (237); and renumber the remaining sections.

PURPOSE: This amendment serves to reduce unnecessary restrictive language as well as eliminate outdated and redundant requirements. This amendment also renumbers the regulation in light of the amendments.

(1) Practices and standards acceptable to the director for the safe control of surface mine walls, including the overall slope of the mine wall, *[shall]* **will** be established and followed by the operator. Such standards *[shall]* **will** be consistent with sound engineering, the nature of the ground and the mine seams**,** and the insuring of safe working conditions according to the degree of slope. Mining methods shall be selected which will provide wall stability, including benching, if necessary, to obtain a safe overall slope.

[(3) The width and height of benches shall be governed by the type of equipment to be used and the operation to be performed.]

*[(4)]***(3)** Safe means of scaling walls shall be provided. Loose material or trees on exposed wall areas shall be removed before any other work is performed in the exposed wall area.

*[(5)]***(4)** Men shall not work under dangerous walls. Hazardous overhanging walls shall be taken down immediately and other unsafe ground conditions shall be corrected promptly**,** or the areas shall be barricaded or posted.

[(6) When removing rock by hand, men shall approach loose rock and areas on walls to be scaled from above and shall scale from a safe location.]

*[(7)]***(5)** The supervisor or a competent person designated by him/her shall examine working areas and faces of walls for unsafe conditions at least at the beginning of each shift, during the shift while men are working**,** and after blasting. Any unsafe conditions found shall be corrected before any further work is performed at the immediate area or face at which the unsafe condition exists.

*[(8)]***(6)** Men shall examine their working places before starting work

and frequently thereafter**,** and any unsafe conditions shall be reported immediately to the supervisor before any other work is performed.

[(9) Large boulders requiring secondary blasting shall be in a safe location before they are drilled or broken.]

*[(10)]***(7)** Men shall not be permitted to work between equipment and the mine wall where the equipment may hinder escape from falls or slides of the wall, unless special safety precautions are taken in advance.

*[(11)]***(8)** No person shall smoke or use an open flame where flammable or combustible liquids or greases are stored or in areas or places where fire or explosion hazards exist.

*[(12)]***(9)** Signs warning against smoking and open flames shall be posted so they can readily be seen in areas or places where fire or explosion hazards exist.

*[(13)]***(10)** Areas surrounding flammable-liquid storage tanks and electric substations and transformers shall be kept free from grass (dry), weeds, underbrush**,** and other combustible materials for at least twenty-five feet (25') in all directions.

*[(14)]***(11)** Fires used for warming purposes shall be enclosed to prevent persons from coming in contact with flame or coals which would ignite clothing. Oily or easily ignited clothing shall not be worn where ignition hazards are present.

*[(15)]***(12)** Buildings or rooms in which oil, grease, flammable liquids**,** or similar flammable materials are stored shall be of fire-resistant construction and well ventilated. Provisions shall be made to control spilled flammable liquids.

*[(16)]***(13)** Abandoned electrical circuits shall be de-energized and isolated so that they cannot become energized inadvertently. If no further use is intended, they shall be removed.

*[(17)]***(14)** Combustible materials, grease, lubricants**,** or flammable liquids shall not be allowed to accumulate where they can create a fire hazard.

*[(18)]***(15)** Materials, such as oily waste and rags, which are subject to spontaneous combustion shall be placed in tightly covered metal containers until disposed of properly.

*[(19)]***(16)** When flammable solvents are used for cleaning, such solvents shall be transported in safety cans of not over five (5)-gallon capacity. When solvents are used to clean parts, the containers used shall have tight fitting covers. No cleaning may be done with flammable solvents near a possible source of ignition.

[(20) Oxygen cylinders shall not be stored near oil or grease.

(21) Gauges and regulators used with oxygen or acetylene cylinders shall be kept clean and free of oil and grease.]

*[(22)]***(17)** Valves on oxygen and acetylene tanks shall be kept closed when they are not in use.

*[(23)]***(18)** Battery-charging stations shall be located in well ventilated areas and in the clear of other equipment.

*[(24)]***(19)** Internal combustion engines, except diesels, shall be shut off and stopped before being fueled.

*[(25)]***(20)** Each mine shall have available or be provided with, appropriate types of firefighting equipment adequate for the size of the mine.

*[(26)]***(21)** Firefighting equipment shall be strategically located, readily accessible, plainly marked, properly maintained and inspected periodically**,** and records shall be kept of such inspections.

*[(27)]***(22)** Fire extinguishers shall be adequate in number and size and of the appropriate type for each particular fire hazard involved.

*[(28)]***(23)** Fire extinguishers shall be replaced immediately with fully charged extinguishers of the same capability after any discharge is made from the extinguishers.

*[(29)]***(24)** Fire extinguishers shall be inspected at least every six (6) months, tested at least once each year**,** and maintained according to the manufacturer's recommendation. Each extinguisher shall bear a tag showing the date of inspection and testing and the initials or name of the person making the examination.

[(30) Fire extinguishers shall be approved by Underwriters' Laboratories, Inc. or Factory Mutual Research Corporation.]

*[(31)]***(25)** When welding or cutting near combustible materials, precautions shall be taken to insure that smoldering metal or sparks do not result in fire.

*[(32)]***(26)** Belt conveyors in locations where fire would create a hazard to personnel shall be provided with safety switches to stop the drive pulley automatically in the event the belt stalls or there is excessive slippage.

*[(33)]***(27)** Detonators and other cap sensitive high explosives shall be stored in magazines provided for that purpose.

*[(34)]***(28)** Blasting agents may be stored in van type trailers, provided that they are well ventilated, kept clean**,** and free of extraneous material that could create a fire hazard.

*[(35)]***(29)** Blasting agents, safety fuse**,** or detonating cord may be stored with explosives, but blasting agents must be kept physically separated from the fuse, detonators**,** and explosives.

*[(36)]***(30)** Magazines shall be—

(A) Detached structures located away from power lines, fuel storage areas**,** and other possible sources of fire;

(B) Constructed substantially of noncombustible material or covered with fire-resistant material;

(C) Electrically bonded and grounded if constructed of metal;

(D) Made of nonsparking materials on the inside including floors;

(E) Provided with adequate and effectively screened ventilation openings near the floor and ceiling;

(F) Kept locked securely when unattended;

(G) Used exclusively for storage of blasting agents, explosives**,** or detonators and kept free of all extraneous materials;

(H) Kept clean and dry in the interior and in good repair; and

(I) Unheated, unless heated in a manner that does not create a fire or explosion hazard. Electrical heating devices shall not be used inside a magazine.

[(37) Only permissible lights worn or carried shall be used inside magazines.]

*[(38)]***(31)** Area surrounding magazines not less than twenty-five feet (25') in all directions shall be kept free of rubbish and other combustibles.

*[(39)]***(32)** Smoking and open flames shall not be permitted within twenty-five feet (25') of explosives and detonator-storage magazines.

[(40) Cases of explosives shall be stored in such a manner to assure the use of the oldest stock first.]

*[(41)]***(33)** Ammonium nitrate-fuel oil (ANFO) mixtures shall be physically separated from dynamite stored in the same magazine and in such a manner that oil does not contaminate the dynamite.

[(42) Cases of explosives shall not be stored on their ends or sides nor in stacks over six feet (6') high.]

*[(43)]***(34)** Explosives and detonators shall be transported in separate vehicles unless separated by four inches (4") of hardwood or the equivalent.

*[(44)]***(35)** Self-propelled vehicles used to transport explosives or detonators shall be equipped with suitable fire extinguishers and marked with proper warning signs.

[(45) When vehicles containing explosives or detonators are parked, the brakes shall be set, the motor power shut off when not in use, and the vehicle shall be blocked securely against rolling when parked on an incline.]

*[(46)]***(36)** Vehicles containing explosives or detonators shall not be left unattended except in blasting areas where loading or charging is in progress.

*[(47)]***(37)** Vehicles containing explosives or detonators shall not be taken to a repair garage or shop for any purpose.

*[(48)]***(38)** Vehicles used to transport explosives or detonators shall be maintained in good condition and shall be operated at a safe speed and in accordance with recognized safe operating practices.

*[(49)]***(39)** Vehicles used to transport explosives other than ANFO mixtures, shall have substantially constructed bodies, no sparking metal exposed in the cargo space**,** and shall be equipped with suitable sides and tail gates; explosives shall not be piled higher than the side or end enclosures.

*[(50)]***(40)** Explosives shall be transported at times and over routes that expose a minimum number of persons.

*[(51)]***(41)** Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives or detonators.

*[(52)]***(42)** No person shall smoke while transporting or handling explosives or detonators.

*[(53)]***(43)** Only the necessary attendants shall ride on or in vehicles containing explosives or detonators.

*[(54)]***(44)** Explosives shall be transported promptly without undue delays in transit.

*[(55)]***(45)** Nonconductive containers with tight-fitting covers shall be used to transport or carry capped fuses and electric detonators to blasting sites.

*[(56)]***(46)** Substantial nonconductive closed containers shall be used to carry explosives to blasting sites.

*[(57)]***(47)** Persons who use explosives, blasting agents**,** or detonators shall be competent and understand the hazards involved; trainees shall do such work only under the supervision of and in the immediate presence of competent men.

*[(58)]***(48)** Blasting operations shall be under the direct control of competent persons designated by the operator for that purpose.

*[(59)]***(49)** Damaged or deteriorated explosives, blasting agents**,** and detonators shall be disposed of in a safe manner and as soon as possible.

*[(60)]***(50)** Explosives or detonators shall not be taken to the face or the immediate vicinity (within twenty-five feet (25')) of the blasting site until all other work has been completed.

*[(61)]***(51)** Holes to be blasted shall be charged as near to blasting time as practical and such holes shall be blasted as soon as practicable after charging has been completed.

*[(62)]***(52)** No person shall smoke within twenty five feet (25') of explosives, blasting agents or detonators.

*[(63)]***(53)** Explosives and blasting agents shall be kept separated from detonators until charging of holes is started.

*[(64)]***(54)** Primers shall be made up at the time of charging and as close to the blasting site as conditions allow.

*[(65)]***(55)** Only wooden or other nonsparking devices shall be used to punch holes in explosives**'** cartridges.

*[(66)]***(56)** Tamping poles shall be blunt and squared at one (1) end and made of wood or other nonsparking material.

*[(67)]***(57)** No tamping shall be done directly on primer cartridges.

*[(68)]***(58)** Unused explosives and detonators shall be moved back to magazine as soon as charging operations are completed.

*[(69)]***(59)** Approaches to areas in which charged holes are awaiting firing shall be guarded, or barricaded and posted, or flagged against unauthorized entry. If blasting is done after dark, red flashing lights shall be used at the approaches to the blasting area.

*[(70)]***(60)** When a blast is about to be fired, ample warning shall be given to allow all persons to retreat to a safe place. Each mine shall have a definite plan of warning signals that can be clearly seen or heard by anyone in the blasting area. The operator shall inform all employees at the local mine as to the established procedure.

[(71) When safety fuse has been used, men shall not return to misfired holes for at least thirty (30) minutes.

(72) When electric blasting caps have been used, men shall not return to misfired holes for at least fifteen (15) minutes.]

*[(73)]***(61)** Blasted materials shall be examined for undetonated explosives after each blast and undetonated explosives found shall be disposed of safely.

*[(74)]***(62)** Misfires shall be reported to the proper supervisor and shall be disposed of safely before any other work is performed in the blasting area.

*[(75)]***(63)** Blast holes in hot-hole areas and holes that have been sprung shall not be charged before tests have been made to insure that the heat has been dissipated to a safe level.

*[(76)]***(64)** If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location until the danger has passed.

*[(77)]***(65)** Holes shall not be drilled where there is danger of intersecting a charge or misfired hole.

*[(78)]***(66)** Fuse and igniters shall be stored in a cool, dry place away from oils or grease.

*[(79)]***(67)** Fuse shall not be kinked, bent sharply**,** or handled roughly.

*[(80)]***(68)** Fuses shall be cut and capped in safe, dry locations posted with No Smoking signs.

*[(81)]***(69)** Blasting caps shall be crimped to fuses only with devices designed for that specific purpose.

*[(82)]***(70)** Fuses less than forty-eight inches (48") long shall not be used for any purpose.

*[(83)]***(71)** At least two (2) men shall be present when lighting fuses and no man shall light more than fifteen (15) individual fuses. If more than fifteen (15) holes per man are to be fired, igniter cord and connectors or electric blasting shall be used.

*[(84)]***(72)** A safe interval of time shall be allowed to light a round and evacuate the blasting area.

*[(85)]***(73)** Fuse shall be ignited with hot-wire lighters, lead spitters, igniter cord**,** or other such devices designed for this purpose.

*[(86)]***(74)** Fuse shall not be ignited before the primer and the entire charge are securely in place.

*[(87)]***(75)** Electric detonators of different brands shall not be used in the same round.

*[(88)]***(76)** Electric detonators shall remain shunted until they are being wired into the blasting circuit. Lead lines and wired rounds shall be kept shunted until immediately before blasting.

[(89) Completely wired round shall be tested with a blasting galvanometer before connections are made to the blasting line.]

*[(90)]***(77)** Lead wires and blasting lines shall not be strung across power conductors, pipelines**,** or within twenty feet (20') of bare powerlines. They shall be protected from sources of static or other electrical contact.

[(91) Permanent blasting lines shall be properly supported, insulated and kept in good repair.]

*[(92)]***(78)** Charging shall be stopped immediately when the presence of static electricity or stray current is detected; the condition shall be corrected before charging is resumed.

*[(93)]***(79)** Charging of holes shall be suspended and the men withdrawn to a safe location upon the approach of an electrical storm.

*[(94)]***(80)** Safety switches and blasting switches shall be labeled, encased in boxes**,** and arranged so that the covers of the boxes cannot be closed with the switches in closed position.

*[(95)]***(81)** Blasting switches shall be locked in the open position, except when closed to fire the blast. Lead wires shall not be connected to the blasting switch until the shot is ready to be fired.

*[(96)]***(82)** The key to a blasting switch shall be entrusted only to the person designated to fire blast.

*[(97)]***(83)** Electrical circuits from the blasting switches to the blast area shall not be grounded.

*[(98)]***(84)** At least a five foot (5') air gap shall be provided between the blasting circuit and the power circuit.

*[(99)]***(85)** Where electric blasting is to be performed, electric circuits to equipment within twenty-five feet (25') of a hole that is to be charged with an electric blasting cap shall be de-energized before electric detonators are brought into the immediate area or the electric equipment shall be moved out of the immediate area.

*[(100)]***(86)** Power sources shall be suitable for the number of electric detonators to be fired and for the type of circuits used.

*[(101)]***(87)** When instantaneous blasting is performed, the double-trunkline or loop system shall be used in detonating cord blasting.

*[(102)]***(88)** When instantaneous blasting is performed, trunklines in multiple-row blasting, shall make one (1) or more complete loops, with crossties between loops at intervals of not over two hundred feet (200').

*[(103)]***(89)** All detonating-cord knots shall be tight and all connections shall be kept at right angles to the trunklines.

*[(104)]***(90)** Delay connectors for firing detonating cord shall be treated and handled with the same safety precautions as blasting caps and electric detonators.

*[(105)]***(91)** Detonating cord shall not be kinked, bent**,** or otherwise handled in such a manner that the train of detonation may be interrupted.

*[(106)]***(92)** Sensitized Ammonium Nitrate Blasting Agents.

(A) When used, the same precautions shall be taken as for high explosives.

(B) Adequate priming shall be employed to guard against misfires, increased toxic fumes**,** and poor performance.

(C) Where pneumatic loading is employed, before any type of blasting operations using blasting agents is put into effect, an evaluation of the potential hazard of static electricity shall be made. Adequate steps, including the grounding of the conductive parts of pneumatic loading equipment, shall be taken to eliminate the hazard of static electricity before blasting agent preparation is commenced.

(D) Pneumatic loading equipment shall not be grounded to waterlines, airlines, rails**,** or other permanent electrical grounding systems.

(E) Hoses used in connection with pneumatic loading machines shall be of the semiconductive type, having total resistance low enough to permit the dissipation of static electricity and high enough to limit the flow of stray electric currents to a safe level. Wirecountered hose shall not be used because of the potential hazard from stray electric currents.

(F) Plastic tubes shall not be used to protect pneumatically loaded blasting agent charges against water unless a positive grounding system is provided to drain electrostatic charges from the holes.

[(107) Equipment for drilling and blasting shall be inspected each shift by a competent person designated by the operator. Equipment defects affecting safety shall be reported immediately.]

*[(108)]***(93)** Equipment defects affecting safety shall be corrected before the equipment is used.

*[(109)]***(94)** The drilling area shall be inspected by a competent person designated by the operator for hazards before drilling operations are started.

*[(110)]***(95)** Men shall not be on the mast while the drill is in operation.

*[(111)]***(96)** Drill crews and others shall stay clear of augers or drill stems that are in motion. Persons shall not pass under or step over a moving stem or auger.

[(112) Receptacles or racks shall be provided for drill steel stored on drills.]

*[(113)]***(97)** Tools and other objects shall not be left loose on the mast or drill platform.

*[(114)]***(98)** When drill is being moved from one drilling area to another, drill steel, tools**,** and other equipment shall be secured and the mast placed in a safe position.

*[(115)]***(99)** In the event of power failure, drill controls shall be placed in the neutral position until power is restored.

*[(116)]***(100)** While in operation, drills shall be attended at all times.

[(117) Drill holes large enough to constitute a hazard shall be covered or guarded.]

*[(118)]***(101)** Men shall not drill from positions that hinder their access to the control levers, or from insecure footing or staging**,** or from atop equipment not designed for this purpose.

[(119) Bit wrenches or bit knockers shall be used to remove detachable bits from drill steel.

(120) Starter steels shall be used when collaring holes with handheld or feedleg drills.]

*[(121)]***(102)** Men shall not hold the drill steel while collaring holes or rest their hands on the chuck or centralizer while drilling.

*[(122)]***(103)** Air shall be turned off and bled from the hose before handheld drills are moved from one working area to another.

*[(123)]***(104)** Equipment used for loading, hauling**,** and dumping shall be inspected each shift by a competent person designated by the operator. Equipment defects affecting safety shall be reported immediately.

*[(124)]***(105)** Equipment defects affecting safety shall be corrected before the equipment is used.

*[(125)]***(106)** Powered mobile equipment shall be provided with adequate brakes.

*[(126)]***(107)** Equipment operators shall be certain, by signal or other means, that all persons are in the clear before starting or moving equipment.

*[(127)]***(108)** When the entire length of a conveyor is visible from the starting switch, the operator shall visually check to make certain that all persons are in the clear before starting the conveyor. When the entire length of the conveyor is not visible from the starting switch, a positive audible warning system shall be installed and operated to warn persons that the conveyor will be started.

*[(128)]***(109)** Trucks, shuttle cars**,** and front-end loaders shall be equipped with emergency brakes separate and independent of the regular braking system.

*[(129)]***(110)** Operators' cabs shall be constructed to permit operators to see without difficulty and should be reasonably comfortable.

*[(130)]***(111)** Cab windows shall be of safety glass or equivalent, in good condition and shall be kept clean.

*[(131)]***(112)** Cabs of mobile equipment shall be kept free of extraneous materials.

*[(132)]***(113)** Adequate back stops or brakes shall be installed on inclined conveyor drive units to prevent conveyors from running in reverse if a hazard to personnel will result.

*[(133)]***(114)** No person shall be permitted to ride a power driven chain, belt**,** or bucket conveyor, unless specifically designed for the transportation of persons.

*[(134)]***(115)** Equipment operating speeds shall be prudent and consistent with conditions of roadway, grades, clearance, visibility, traffic**,** and the type of equipment used.

*[(135)]***(116)** Dust control measures shall be taken where dust significantly reduces visibility of equipment operators. Haulage roads shall be wet down as necessary unless dust is controlled adequately by other methods.

*[(136)]***(117)** Mobile equipment operators shall have full control of the equipment while it is in motion.

*[(137)]***(118)** Dippers, buckets, loading booms**,** or heavy suspended loads shall not be swung over the cabs of haulage vehicles until the drivers are out of the cabs and in safe locations, unless the trucks are designed specifically to protect the drivers from falling material.

[(138) Only authorized persons shall be present in areas of loading or dumping operations.

(139) Unless safe provisions are made for persons to mount or leave equipment while it is in operation, the operator shall be notified of their intentions before getting on or off.]

*[(140)]***(119)** Operators shall assume the normal operating position at all times while the vehicle is in motion and shall sit facing the direction of travel while operating equipment with dual controls.

*[(141)]***(120)** Men shall not work or pass under the buckets or booms of loaders in operation.

*[(142)]***(121)** When traveling between work areas, the equipment shall be secured in the travel position.

*[(143)]***(122)** Dippers, buckets, scraper blades**,** and similar movable parts shall be secured or lowered to the ground when not in use.

*[(144)]***(123)** Men shall not ride in dippers, buckets, forks, clamshells**,** or other parts of any equipment not specifically designed for the transportation of persons.

*[(145)]***(124)** Loaded cars or trucks shall not be moved until the loads are trimmed properly.

*[(146)]***(125)** Electrically powered mobile equipment shall not be left unattended unless the master switch is in the off position, all operating controls are in the neutral position**,** and the brakes are set or other equivalent precautions are taken against rolling.

*[(147)]***(126)** Mobile equipment shall not be left unattended unless the brakes are set. The wheels shall be turned into a bank or wall or shall be blocked when such equipment is parked on a grade.

*[(148)]***(127)** Men shall not ride on top of loaded haulage equipment.

*[(149)]***(128)** Men shall not ride outside the cabs and beds of mobile equipment.

*[(150)]***(129)** Equipment which is to be hauled shall be properly loaded and secured.

*[(151)]***(130)** Dumping locations and haulage roads shall be kept reasonably free of water, debris**,** and spillage.

*[(152)]***(131)** Berms, bumper blocks, safety hooks**,** or similar means shall be provided to prevent overtravel and overturning at dumping locations.

*[(153)]***(132)** If truck spotters are used, they shall be well in the clear while trucks are backing into dumping position and dumping lights shall be used at night to direct trucks.

*[(154)]***(133)** When overhead clearance is restricted, warning devices shall be installed**,** and the restricted area shall be conspicuously marked.

*[(155)]***(134)** Ramps and dumps shall be of solid construction, of ample width, have ample side clearance and headroom**,** and be kept reasonably free of spillage.

*[(156)]***(135)** Lights, flares**,** or other warning devices shall be posted when parked equipment creates a hazard to vehicular traffic.

*[(157)]***(136)** Tires shall be deflated before repairs on them are started and adequate means shall be provided to prevent wheel-locking rims from creating a hazard during tire inflation.

*[(158)]***(137)** Any load extending more than four feet (4') beyond the rear of the vehicle body shall be marked clearly with a red flag by day and a red light by night.

[(159) A tow bar shall be used to tow heavy equipment. A safety chain shall be used in conjunction with the tow bar.]

*[(160)]***(138)** When heavy equipment is to be towed, the towing vehicle shall be of suitable weight and strength to maintain safe control of the load.

*[(161)]***(139)** Safe means of access shall be provided and maintained to all working places.

*[(162)]***(140)** Crossovers, elevated walkways, elevated ramps**,** and stairways shall be of substantial construction, provided with handrails and maintained in good condition. Where necessary, toeboards shall be provided.

*[(163)]***(141)** Ladders shall be of substantial construction, maintained in good condition**,** and regularly inspected.

*[(164)]***(142)** Portable straight ladders shall be provided with nonslip bases, shall be placed against a safe backing at the proper angle**,** and set on secure footing.

*[(165)]***(143)** Fixed ladders shall be anchored securely and installed to provide at least three inches (3") of toe clearance.

*[(166)]***(144)** Fixed ladders should have substantial railed landing at least every twenty feet (20') unless backguards are provided.

*[(167)]***(145)** Steep fixed ladders (seventy degrees to ninety degrees (70°–90°) from the horizontal) twenty feet (20') or more in length shall be provided with backguards, cages**,** or equivalent protection, starting at a point not more than seven feet (7') from the bottom of the ladder.

*[(168)]***(146)** Fixed ladders shall project at least three feet (3') above landings or substantial handholds shall be provided above the landings.

*[(169)]***(147)** Wooden members of ladders shall not be painted.

*[(170)]***(148)** Ladderways, stairways, walkways**,** and ramps shall be kept free of loose rock and extraneous materials.

*[(171)]***(149)** Men climbing or descending ladders shall face the ladders and have both hands free for climbing.

*[(172)]***(150)** Railed walkways shall be provided wherever persons are regularly required to walk along conveyor belts. Inclined railed walkways shall be nonskid or provided with cleats.

*[(173)]***(151)** Openings above, below**,** or near travelways through which men or materials may fall shall be protected by railings, barriers**,** or covers. Where it is impractical to install such protective devices, adequate warning signals shall be posted.

*[(174)]***(152)** Scaffolds and working platforms shall be of substantial construction and provided with handrails and maintained in good condition. Floorboards shall be laid properly and the scaffolds and working platforms shall not be overloaded. Working platforms shall be provided with toeboards where necessary.

*[(175)]***(153)** Crossovers shall be provided where it is necessary to cross conveyors.

*[(176)]***(154)** Moving conveyors shall be crossed only at designated crossover points.

[(177) Slippery walkways shall be provided with cleats and handrails or ropes, or both.]

*[(178)]***(155)** Regularly used walkways and travelways shall be sanded, salted**,** or cleared of snow and ice as soon as practicable.

*[(179)]***(156)** Electric circuits shall be protected against excessive overloads by fuses or circuit breakers of the correct type and capacity.

[(180) Powerlines and telephone circuits shall be protected against short circuits and lightning.]

*[(181)]***(157)** Electric equipment and circuits shall be provided with switches or other controls. Such switches or controls shall be of approved design and construction and shall be properly installed.

*[(182)]***(158)** Individual overload protection or shortcircuit protection shall be provided for the trailing cables of mobile equipment.

*[(183)]***(159)** Power wires and cables shall have adequate current-carrying capacity and shall be protected from mechanical injury.

*[(184)]***(160)** Neither crawler-mounted nor rubbertired equipment shall run over trailing cables, unless the cables are properly bridged or otherwise protected.

*[(185)]***(161)** Distribution boxes shall be provided with disconnect switches.

*[(186)]***(162)** Trailing cable and power-cable connections to junction boxes shall not be made or broken under load.

*[(187)]***(163)** Power wires and cables shall be insulated adequately where they pass into or out of electrical compartments.

*[(188)]***(164)** Power wires and cables which present a fire hazard shall be well installed on acceptable insulators.

*[(189)]***(165)** Where metallic tools or equipment can come in contact with bare powerlines, the line shall be guarded or de-energized.

*[(190)]***(166)** Telephone and low-potential electric signal wires shall be protected from contacting energized powerlines.

*[(191)]***(167)** High-potential transmission cables shall be covered, insulated or placed according to acceptable electrical codes to prevent contact with low-potential circuits.

[(192) The potential on bare signal wires accessible to personal contact should not exceed forty (40) volts.]

*[(193)]***(168)** Splices in power cables, including ground conductor, where provided, shall be—

(A) Mechanically strong with adequate electrical conductivity;

(B) Effectively insulated and sealed to exclude moisture; and

(C) Provided with mechanical protection and electrical conductivity as near as possible to that of the original.

[(194) Shovel trailing cables shall not be moved with the shovel dipper unless cable slings or sleds are used.

(195) Energized high-potential cables shall be handled with insulated hooks or tongs.]

*[(196)]***(169)** Electrical equipment shall be de-energized before work is done on such circuits unless hot line tools are used. Switches shall be locked out and suitable warning signs posted by the individuals who are to do the work; locks shall be removed only by authorized persons.

*[(197)]***(170)** Principal power switches shall be labeled to show which units they control, unless identification can be made readily by location.

*[(198)]***(171)** At least three feet (3') of clearance shall be provided around all parts of stationary electric equipment or switchgear where access or travel is necessary.

*[(199)]***(172)** Suitable danger signs shall be posted at all major electrical installations.

*[(200)]***(173)** Areas containing major electrical installations shall be entered only by authorized personnel.

*[(201)]***(174)** Electrical connections and resistor grids that are difficult or impractical to insulate shall be guarded, unless protection is provided by location.

*[(202)]***(175)** Reverse-current protection shall be provided at storage battery charging stations.

*[(203)]***(176)** All metal enclosing or encasing electrical circuits shall be grounded or provided with equivalent protection. (This requirement does not apply to battery-operated equipment.)

*[(204)]***(177)** Metal fencing and metal buildings enclosing transformers and switchgear shall be grounded.

*[(205)]***(178)** Frame grounding or equivalent protection shall be provided for mobile equipment powered through trailing cables.

*[(206)]***(179)** Continuity and resistance or grounding systems shall be tested immediately after installation.

*[(207)]***(180)** Electric equipment and wiring shall be inspected by a competent person as often as necessary to assure safe operating conditions.

*[(208)]***(181)** When a potentially dangerous condition is found, it shall be corrected before equipment or wiring is energized.

*[(209)]***(182)** Inspection and cover plates on electrical equipment shall be kept in place at all times, except during testing or repairs.

*[(210)]***(183)** Circuits shall be de-energized before fuses are removed in medium or high voltage circuits.

*[(211)]***(184)** Fuse tongs or hot line tools shall be used when fuses are removed in medium or high voltage circuits.

*[(212)]***(185)** Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections.

*[(213)]***(186)** Surplus trailing cables to shovels, cranes**,** and similar equipment shall be stored in cable boots or on reels mounted on the equipment or otherwise protected from mechanical damage.

*[(214)]***(187)** Operating controls shall be installed so that they can be operated without danger of contact with energized conductors.

*[(215)]***(188)** Equipment with booms or masts which are not properly protected shall not be operated where the booms or masts can come within ten feet (10') of an energized overhead powerline.

*[(216)]***(189)** Overhead high-potential powerlines shall be installed as specified by the *National Electrical Safety Code*.

*[(217)]***(190)** When equipment must be moved under energized powerlines and the clearance is less than ten feet (10'), the powerlines shall be deenergized or other precautions shall be taken.

*[(218)]***(191)** Guy wires from poles supporting high voltage transmission lines shall be securely connected to the system ground or be provided with insulators installed near the pole end.

*[(219)]***(192)** Telegraph, telephone**,** or signal wires shall not be installed on the same crossarm with power conductors. When carried on poles supporting power lines, they shall be installed as specified by the *National Electrical Safety Code*.

*[(220)]***(193)** Transformers shall be totally enclosed or shall be placed at least fifteen feet (15') above the ground, or installed in a transformer house or surrounded by a substantial fence at least six feet (6') high and at least three feet (3') from any energized parts, casings**,** or wiring.

*[(221)]***(194)** Transformer enclosures shall be kept locked against unauthorized entry.

[(222) Tools and supplies shall be carried in the hands and not on the shoulders when men travel near bare power conductors.]

*[(223)]***(195)** Unguarded conveyors with walkways shall be equipped with emergency stop devices or cords along their full length.

*[(224)]***(196)** Use of Equipment—Guards.

(A) Gears, sprockets, chains, drive, head, tail; and take-up pulleys, flywheels, couplings, shafts, sawblades, fan inlets; and similar

exposed moving machine parts which may cause injury to persons shall be guarded.

(B) Overhead belts shall be guarded if the whipping action from a broken belt would be hazardous to persons below.

(C) Guards at conveyor drive, head**,** and tail pulleys shall be sufficient to prevent a person from reaching behind the guard and becoming caught between the belt and the pulley.

(D) Protruding set screws on revolving parts shall be guarded.

(E) Except when testing the machinery, guards shall be securely in place while machinery is being operated.

(F) Guards shall be sufficiently strong and maintained to provide the required protection.

[(G) Stationary grinding machines other than special bit grinders shall be equipped with—

1. Peripheral hoods (less than ninety degrees (90°) throat openings) capable of withstanding the force of a bursting wheel;

2. Adjustable tool rests set as close as practical to the wheel; and

3. Safety washers.]

*[(H)]***(G)** Face shields or goggles, in good condition, shall be worn when operating a grinding wheel.

*[(I)]***(H)** Handheld power tools, other than rock drills, shall be equipped with controls requiring constant hand or finger pressure to operate the tools or shall be equipped with friction or other equivalent safety devices.

*[(J)]***(I)** Guards or shields shall be provided in areas where flying or falling materials present a hazard.

*[(K)]***(J)** Vehicles such as forklifts, trucks, front-end loaders**,** and bulldozers shall be provided with roll bar protection when necessary to protect the operator.

*[(L)]***(K)** Forklift trucks, front-end loaders**,** and bulldozers shall be provided with substantial canopies when necessary to protect the operator against falling material.

*[(M)]***(L)** Unsafe equipment or machinery shall be removed from service immediately.

*[(N)]***(M)** Machinery and equipment shall be operated only by authorized and experienced persons.

*[(O)]***(N)** Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustment or where non-energized components of large machinery can be safely repaired while the machine is operating.

*[(P)]***(O)** Men shall not work on mobile equipment in a raised position until it has been blocked in place securely. This does not preclude the use of equipment specifically designed, such as elevated mobile work platforms.

[(Q) Drive belts shall not be shifted while in motion unless the machines are provided with mechanical shifters.]

*[(R)]***(P)** Belts, chains**,** and ropes shall not be guided onto power driven moving pulleys, sprockets**,** or drums with the hands except on slow moving equipment especially designed for hand feeding.

*[(S)]***(Q)** Pulleys or conveyors shall not be cleaned manually while the conveyor is in motion.

*[(T)]***(R)** Belt dressing shall not be applied manually while belts are in motion unless an aerosol-type dressing is used.

*[(U)]***(S)** Machinery shall not be lubricated while in motion where a hazard exists, unless equipped with extended fittings or cups.

[(V)] **(T)** Compressed and liquid gas cylinders shall be secured in a safe manner.

*[(225)]***(197)** Adequate first-aid materials, including stretchers and blankets, shall be provided at places convenient to all working areas. Water or neutralizing agents shall be available where corrosive chemicals or other harmful substances are stored, handled**,** or used.

*[(226)]***(198)** Safety belts and lines shall be worn when men work where there is danger of falling; a second person shall tend the lifeline when bins, tanks**,** or other dangerous areas are entered.

*[(227)]***(199)** Life jackets or belts shall be worn where there is danger of falling into deep water.

*[(228)]***(200)** Protective clothing, rubber gloves, goggles**,** or face shields shall be worn by persons handling substances that are corrosive, toxic**,** or injurious to the skin.

[(229) Snug-fitting clothing shall be worn by persons working around moving equipment and machinery.

(230) Protective gloves shall be worn by employees handling materials which may cause injury.]

*[(231)]***(201)** Gloves shall not be worn where they could create a hazard by becoming entwined or caught in moving parts of machinery.

*[(232)]***(202)** Effective hearing protection shall be worn where noise levels may cause permanent ear damage or hearing loss, or noise shall be reduced to safe levels, unless the wearing of the protective devices would create a greater danger to the employee.

*[(233)]***(203)** Each place of work shall be visited by a supervisor or a competent person at the beginning of**,** and at least once each shift and more frequently as necessary to ensure that work is being done in a safe manner.

*[(234)]***(204)** No employee shall be assigned or allowed, or be required to perform work alone in any area where hazardous conditions exist that would endanger his/her safety unless s/he can communicate with others, can be heard**,** or can be seen.

*[(235)]***(205)** When work is performed after dark, the area of drilling, blasting, stripping**,** and loading shall be properly illuminated.

*[(236)]***(206)** An authorized competent person shall be in charge, at all times, when men are working.

[(237) Arrangement shall be made in advance for obtaining emergency medical assistance and transportation for injured persons.]

AUTHORITY: sections 286.060 and 293.630, RSMo [1986] ***2016****. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules

PROPOSED AMENDMENT

8 CSR 30-3.010 Prevailing Wage Rates for Public Works Projects.

The division proposes to amend sections (4), (6), and (7); delete sections (1), (3), and (5); and renumber the remaining sections.

PURPOSE: This amendment serves to reduce unnecessary restrictive language as well as eliminate outdated and redundant requirements. This amendment also renumbers the regulation in light of the amendments.

[(1) All public bodies of Missouri contemplating construction work must obtain from the department an annual wage order which sets forth the prevailing hourly rate of wages in the locality. The rates so determined shall be incorporated in the contract specifications and made a part of those specifications, except that construction contracts of the State Highway and Transportation Commission need not list specific wage rates to apply, but may refer to the wage rates contained in the appropriate General Wage Orders issued by the department, as applicable.]

*[(2)]***(1)** Request for annual wage orders shall be initiated at least ten (10) calendar days before advertisement of the specifications for the contract for which the determination is sought. An exception from this provision will be made by the department only upon a proper showing of extenuating circumstances. The department has prepared and printed Form No. PW-3 for use in making a request. The form may be secured by writing Division of Labor Standards, PO Box 449, Jefferson City, MO 65102.

[(3) A project notification form PW-2 must be filed for each separate project by the public body, except the State Highways and Transportation Commission, which will be furnished prevailing wage determinations under General Wage Orders.]

*[(4)]***(2)** The annual wage order issued by the department contains the current wage rates prevailing in the locality at the time the annual wage order is issued. Hours worked during the calendar year are used to set the prevailing wage rates in the annual wage order issued in March of the following year. The department will consider hours submitted for use in its initial determination of the prevailing wage rates to be included in a particular year's wage order only if those hours are received by it, by either paper submission or in electronic format, no later than January 31 of that year. Section 290.262.9, RSMo, provides that the annual wage order for a particular occupational title may be altered once each year with an incremental increase. A public body shall specify in the call for bids for each contract the prevailing hourly rate of wages in the locality for each type of worker as set forth in the annual wage order or any replacement page(s) identifying the annual incremental increase issued by the department. The wage rates attached to, and made a part of, the call for bids for a contract *[shall]* **will** remain in effect for the duration of that particular contract.

[(5) It should be understood by all interested parties that the certified prevailing wage rates determined by the department are minimum wage rates. The contractor may not pay less than the prevailing wage rates determined by the department for the project or contract awarded to him/her as set forth in the proposal on which s/he submitted his/her bid. Employees are free to bargain for a higher rate of pay and employers are free to pay a higher rate of pay.]

*[(6)]***(3)** *[Each month the successful bid contractors shall submit certified copies of their current payrolls to the contracting public body.]* The public body, upon receipt of the payrolls on a project, shall keep the payrolls on file for a period of one (1) year from the date of submission of the final payrolls by the contractor. The payroll records shall set out accurately and completely the following: name and address of each worker, the class or type of worker, rate of pay, daily and weekly number of hours worked for each class or type of work performed, deduction made, and actual wages paid for each class or type of work performed by each worker. *[The payroll records shall be available at all times for inspection by authorized representatives of the Department of Labor and Industrial Relations.]*

*[(7)]***(4)** The public body shall make examinations of the payrolls and other records of each contractor or subcontractor as may be necessary to assure compliance with the provisions of the law. In connection with those examinations, particular attention should be given to the correctness of classifications and any disproportionate employment of any workers. The examinations shall be of a frequency that may be necessary to assure conformity with the provisions of the law. An examination shall be made after the project has been substantially completed**,** but prior to**,** the acceptance of the affidavit as required by section 290.290, RSMo. *[If any violation of sections 290.210–290.580, RSMo, is discovered by the inspecting public body, it is their duty under section 290.250, RSMo, to withhold and retain from payments to the contractor all sums and amounts due and owing as a result of any violation. Any violation shall be immediately reported to the Division of Labor Standards at PO Box 449, Jefferson City, MO 65102 or by telephone.]*

*AUTHORITY: section 290.240.2, RSMo [2000] **2016**. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules

PROPOSED AMENDMENT

8 CSR 30-3.020 Definitions. The division proposes to amend section (2).

PURPOSE: This amendment serves to eliminate outdated requirements.

(2) The term site of the building or construction job means the physical place(s) where the public works are to be constructed, and also means other adjacent or nearby property used by the contractor or subcontractor in that construction which can reasonably be said to be included in the site. Except as otherwise provided in this section, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards and the like, are part of the site of the building or construction job provided they are dedicated in a substantial degree to the performance of the public works project, and are so located in proximity to the actual construction location that it would be reasonable to include them. *[The dedication of seventy-five percent*

(75%) or more of the output of a fabrication plant, batch plant and the like, to the public works project raises a rebuttable presumption that the facility is part of the site of the building or construction job.] The presumption may be rebutted by evidence showing that the facility was established for other legitimate commercial purposes that make the facility useful well after the public works project has been completed. Not included in the site of the building or construction job are permanent home offices, branch plant establishments, fabrication plants**,** and tool yards of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular public works project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards**,** and the like, of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids and not on the project site are not included in the site of the building or construction job. The permanent, previously established facilities are not a part of the site of the building or construction job, even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a public works project.

*AUTHORITY: section 290.240, RSMo [1994] **2016**. Original rule filed Aug. 24, 1990, effective April 29, 1991. Amended: Filed July 17, 1995, effective Jan. 30, 1996. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules

PROPOSED AMENDMENT

8 CSR 30-3.030 Apprentices and Trainees. The division proposes to delete sections (2), (3), and (4).

PURPOSE: This amendment serves to reduce unnecessary restrictive language as well as eliminate outdated and redundant requirements.

[(2) Apprentices shall be permitted to work at less than the predetermined rate for the class or type of work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The allowable ratio of apprenticeship to journeymen on the site of the construction for any class or type of workers shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on the payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this rule, shall be paid not less than the applicable wage rate on the wage determination for the class or type of work actually performed. In addition, those apprentices performing work on the site of the construction who are in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the class or type of work actually performed. Every apprentice shall be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate for the class or type of worker specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices shall be paid the full amount of fringe benefits listed on the wage determination for the applicable class or type of work performed. In the event the Bureau of Apprenticeship and Training withdraws approval of an apprenticeship program, the contractor shall no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the class or type of work performed until an acceptable program is approved.

(3) Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the United States Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the annual wage order for the applicable class or type of work performed. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the annual wage order for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(4) Workers employed on federal-aid highway construction projects may be paid at an apprentice or trainee rate of pay if enrolled in an apprenticeship or skill training program which has been certified by the Secretary of the United States Department of Transportation pursuant to 23 U.S.C. 113. In the event the Secretary of Transportation withdraws approval of a program, the contractor will no longer be permitted to pay workers less than the applicable predetermined rate for the work performed until an acceptable program is approved.]

*AUTHORITY: section 290.240, RSMo [1994] **2016**. Original rule filed Aug. 24, 1990, effective April 29, 1991. Amended: Filed July 17, 1995, effective Jan. 30, 1996. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules

PROPOSED AMENDMENT

8 CSR 30-3.040 Classifications of Construction Work. The division proposes to amend sections (1), (2), and (3).

PURPOSE: This amendment serves to reduce unnecessary restrictive language as well as eliminate outdated and redundant requirements.

(1) All public works construction, for which the prevailing hourly rate of wages of workers are to be determined, *[shall]* **will** be classified as either—

(2) Building construction *[shall]* means the following:

(F) Storm and sanitary sewers inside the building and to the *[curb]* **property** line;

(G) Work in connection with telephone, electrical, water, oil, gas or fuel lines, or other utility or communication lines inside a building and to the *[curb]* **property** line;

(N) Work on water and wastewater treatment plants within the *[fence]* **property** line.

(3) Highway and heavy construction *[shall]* means the following:

(G) Work in connection with telephone, electrical, water, oil, gas or fuel lines, or any other utility or communication lines from the *[curb]* **property** line;

*AUTHORITY: section 290.240, RSMo [1994] **2016**. Original rule filed Aug. 24, 1990, effective April 29, 1991. Amended: Filed July 17, 1995, effective Jan. 30, 1996. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules

PROPOSED RESCISSION

8 CSR 30-3.050 Posting of Prevailing Wage Rates. This rule set forth the requirements for the posting of prevailing wage rates on public works projects subject to the Prevailing Wage Law.

PURPOSE: This rescission serves to eliminate an unnecessary requirement to post prevailing wages.

AUTHORITY: section 290.240, RSMo 1986. Original rule filed Aug. 24, 1990, effective April 29, 1991. Rescinded: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules

PROPOSED AMENDMENT

8 CSR 30-3.060 Occupational Titles of Work Descriptions. The division proposes to amend the purpose and sections (2), (3), (4), and (6); and subsections (8)(A), (8)(C), (8)(G), (8)(M), and (8)(X).

PURPOSE: This amendment serves to reduce unnecessary restrictive language in the purpose of the rule, as well as the rule itself.

PURPOSE: [The Department of Labor and Industrial Relations is required to determine the prevailing hourly rate of wages to be paid to each worker engaged in construction on a public works project, relative to the type of work performed by each worker.] This rule describes by occupational title the type of work performed in the construction of a public works project in Missouri and sets forth the procedures to be followed in identifying each occupational title utilized on a public works project.

(2) Each occupational title of work description *[shall]* **will** be based upon the particular nature of the work performed, with consideration given to those trades, occupations**,** or work generally considered within the construction industry as constituting a distinct classification of work. In determining occupational titles and scope of work definitions, the department *[shall]* **will** consider the following:

(3) Any person wishing to add, delete**,** or modify an occupational title of work description shall submit to the director of the Division of Labor Standards a written request containing the proposed changes*[. Proposals shall contain]* **and** the following information:

(4) Interested parties who wish to submit wage information to be used in establishing the prevailing hourly rate of wages for a particular class or type of work are required to identify the work according to the applicable occupational title of work description set forth in this rule. Hours of work reported to the department *[shall]* **will** not be used to establish the prevailing hourly rate of wages if the party submitting the hours of work fails to identify the work under one **(1)** of the occupational titles recognized by this rule.

(6) The occupational titles and work descriptions for each type or class of work contained herein are valid throughout the entire state of Missouri. Through an objection to a wage order, an interested party may assert that any given description of work, as stated within this rule, does not apply to a specific occupational title(s) and that a different work description should apply to that occupational title(s). The interested party *[shall have]* **has** the burden of proving by a preponderance of the evidence the inapplicability of the description of work within that particular occupational title, but *[shall]* **will** be afforded the opportunity to do so in a hearing on an objection to the wage order before the Labor and Industrial Relations Commission.

(8) The occupational titles of work descriptions set forth here are as follows:

(A) Asbestos Worker/Heat and Frost Insulator—Applies to workers who apply insulation materials to mechanical systems to reduce loss or absorption of heat, prevent moisture condensation**,** and to deaden sound and prevent vibration. The workers remove all insulation materials from mechanical systems unless the mechanical system is being scrapped. The work falling within this occupational title of work description includes:

1. The preparation, including the building of enclosures and hanging polyurethane, and physical distribution on the job site of asbestos, cork, plastic, magnesia or similar materials, or other materials used as a substitute, and used as thermal insulation. The manufacture, fabrication, assembling, molding, handling, erection, spraying, pouring, making, hanging, application, adjusting, alteration, repairing, dismantling, reconditioning, corrosion control and testing of heat or frost insulation, such as asbestos, cork, mineral wall, infusorial earth, mercerized silk, flax, fiber, fire felt, asbestos paper, asbestos curtain, asbestos millboard, fibrous glass, foam glass, styrofoam, polyurethane, polystyrene, metals, plastics, fibrous matter, roving and resins, and the erection of scaffolding up to fourteen feet (14'), working platform;

2. The covering, including encapsulation, of boilers, tanks, refrigeration units, evaporators, turbines, fittings, valves, ducts, flues, vats, equipment, hot and cold pipes or any other hot or cold surfaces with the insulation materials listed in this rule, used for the purpose of thermal insulation, fire stoppage, fireproofing, radiator protection, sound deadeners**,** and the lagging (covering) on piping; and

3. The removal of all insulation materials from mechanical systems, unless the mechanical system is being scrapped, whether they contain asbestos or not (pipes, boilers, ducts, flues, breechings). All cleanup required in connection with this work, *[shall]* include**s** the sealing, labeling**,** and dropping of scrap material into the appropriate containers. (After drop, final disposal is considered to be the class or type of work falling within the occupational title of work description for second semiskilled laborer.);

(C) Bricklayers and Stone Mason—Applies to workers who prepare, lay, set, bed, point, patch, grout, caulk, cut, fit, plumb, align, level, anchor, bolt, or weld brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry. Also, the workers install expansion joint materials in brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry. The work falling within this occupational title of work description includes:

1. The unloading of brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry where power equipment and rigging are *[required]* **necessary**;

2. The masonry paving and rip-rapping of all types, with or without mortar;

3. The reinforcing of masonry, including placing, tying, and setting of rods;

4. The application of insulation systems and materials, and air and/or vapor barrier systems and materials, by spray, trowel, roller, adhesive, or mechanically fastened in or to all masonry walls;

5. The caulking of abutting masonry openings in masonry walls, expansion joints, and false joints in all types of masonry;

6. The waterproofing of all types of masonry, which *[shall]* include**s** installation and application of air and/or vapor barrier systems and materials by spray, trowel, roller, adhesive, or mechanically fastened; and

7. The cleaning, tuckpointing, sandblasting, steam cleaning, and Gunite work on all types of masonry;

(G) Electrician—Encompasses two (2) subclassifications as follows, Inside Wireman and Outside-Line Construction/Lineman:

1. Inside wireman—Applies to workers who are responsible for installation, assembly, construction, inspection, operation, and repair of all electrical work within the property lines of any given property (manufacturing plants, commercial buildings, schools, hospitals, power plants, parking lots). This scope of work shall begin at the secondary site of the transformer when the transformer is furnished by the local utility and the service conductors are installed underground. When service conductors are installed overhead in open air from wooden poles, this scope of work shall start immediately after the first point of attachment to the buildings or structures. The work falling within this occupational title of work description includes:

A. Planning and layout of electrical systems that provide power and lighting in all structures. This includes cathodic protection systems utilized to protect structural steel in buildings and parking structures;

B. All handling, moving, loading, and unloading of any electrical materials, materials used in association with an electrical system, electrical equipment, and electrical apparatus on the job site, whether by hand or where power equipment and rigging are required;

C. Welding, burning, brazing, bending, drilling, and shaping of all copper, silver, aluminum, angle iron, and brackets to be used in connection with the installation and erection of electrical wiring and equipment;

D. Measuring, cutting, bending, threading, forming, assembling, and installing of all electrical raceways (conduit, wireways, cable trays), using tools, such as hacksaw, pipe threader, power saw, and conduit bender;

E. Installing wire in raceways (conduit, wireways, troughs, cable trays). This wire may be service conductors, feeder wiring, subfeeder wiring, branch circuit wiring;

F. Chasing and channeling necessary to complete any electrical work, including the fabrication and installation of duct banks and manholes incidental to electrical, electronic, data, fiber optic, and telecommunication installation;

G. Splicing wires by stripping insulation from terminal leads with knife or pliers, twisting or soldering wires together, and applying tape or terminal caps;

H. Installing and modifying of lighting fixtures. This includes athletic field lighting when installed on stadium structures or supports other than wooden poles, or both;

I. Installing and modifying of all electrical/fiber optic equipment (AC-DC motors, variable frequency drives, transformers, reactors, capacitors, motor generators, emergency generators, UPS equipment, data processing systems, and annunciator systems where sound is not a part thereof);

J. Installing of raceway systems utilizing conduit, conduit bodies, junction boxes, and device boxes for switches and receptacles. This also may include wiring systems utilizing other methods and materials approved by the *National Electrical Code* (MC cable, AC cable, BX, or flexible metal tubing or electrical nonmetallic tubing);

K. Installing of main service equipment, distribution panels, subpanels, branch circuit panels, motor starters, disconnect switches, and all other related items;

L. Installing and wiring of instrumentation and control devices as they pertain to heating, ventilating, air conditioning (HVAC) temperature control and energy management systems, building automation systems, and electrically or fiber optic operated

fire/smoke detection systems where other building functions or systems are controlled;

M. Installing conduit or other raceway greater than ten feet (10') when used for the following: fire alarm systems, security systems, sound systems, closed circuit television systems or cable television systems, or any system requiring mechanical protection or metallic shielding (telephone systems);

N. Testing continuity of circuit to insure electrical compatibility and safety of components. This includes installation, inspecting, and testing of all grounding systems including those systems designed for lighting protection; and

O. Removing electrical systems, fixtures, conduit, wiring, equipment, equipment supports, or materials involved in the transmission and distribution of electricity within the parameters of the building property line if reuse of any of the existing electrical system is required. This may include the demolition and removal and disposal of the electrical system;

2. Outside-line construction/lineman—Applies to workers who erect and repair transmission poles (whether built of wood, metal, or other material), fabricated metal transmission towers, outdoor substations, switch racks, or similar electrical structures, electric cables, and related auxiliary equipment for high-voltage transmission and distribution powerlines used to conduct energy between generating stations, substations, and consumers. The work (overhead and underground) falling within this occupational title of work description includes:

A. Construction, repair, or dismantling of all overhead and underground electrical installations. The handling and operation of all equipment used to transport men, tools, and materials to and from the job site. The framing, trenching, digging, and backfilling of vaults, holes and poles**,** and anchors (by hand or mechanical equipment), guying, fastening to the stub-in on concrete footings or pads, assembling of the grillage, grounding of all structures, stringing overhead wire, installing underground wire, splicing, and installation of transformers;

B. Construction and repair of highway and street lighting and traffic signal systems, cathodic protection systems, and ball field lighting systems;

C. Lineman operator—Operates equipment used on the outside line portion of a project. The lineman operator assists linemen in the performance of their work**,** but does not climb or work out of any type of aerial lift equipment. The lineman operator does not perform any work that requires the use of hand tools;

D. Groundman—Work performed on the ground to assist the journeymen outsideline construction/lineman on work not energized. Groundmen use jack hammers, air drills, shovels, picks, tamps, trenching equipment, and other such tools for excavating and/or compacting dirt or rock on the outside line portion of a project but do not use hand tools;

E. Lineman tree trimmer—Trimming and removal of trees, stumps, limbs, brush, and other related tasks in and around electrical systems by use of chain saws, pruners, pole saws, and hand saws only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of-ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Lineman tree trimmer work may be performed on the ground and in the air; and

F. Groundman tree trimmer—Assists the lineman tree trimmer in the performance of their work using rakes, chain saws, chippers, and industrial mowers in and around electrical systems only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of-ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Groundman tree trimmer work is only performed on the ground; and

3. The occupational title of electrician may include in a particular wage determination the subclassifications of lineman operator, groundman, lineman tree trimmer, groundman tree trimmer, or any combination of these, pursuant to section (6). The description of work and corresponding wage rates *[shall]* **will** be established pursuant to the proceedings set forth in section (6);

(M) Linoleum Layer and Cutter—Applies to workers who measure, cut, sew, make-up and seam, tape, fit, lay**,** and install and seal and wax materials to be cemented, tacked or otherwise applied to its base, wherever it may be. These materials may be used as shock-absorbing, sound-absorbing or decorative coverings. With the exception of terrazzo, magnesite and latex built-up floors, the materials include oil cloth, matting, linen, carpet, synthetic turf, linoleum, vinyl, plastic, rubber, cork, mastic, asphalt, mastipave, tile, wood tile, interlocking and magnetic tile, chalk and bulletin board, nonslip or abrasive materials, resilient, decorative seamless surface coatings, monolithic coverings (monolithic *[shall]* means all resilient seamless material such as epoxy, polyethylene, plastics and their derivatives, components**,** and systems) and all other resilient coverings on floors, walls, counters, table tops**,** and ceilings. The work falling within the occupational title of work description includes:

1. The handling of materials at the point of installation;

2. The performing of all necessary preparation and finish work, such as sweeping, scraping, sanding, or chipping dirt and irregularities from base surfaces and filling cracks with putty, plaster, or cement grout to form smooth, clean foundations, drilling holes for sockets and pins;

3. The installing of underlayment, sanding and filling, fitting of metal edgings, metal corners and caps**,** and fitting devices for attachment of these materials;

4. The spreading of adhesive cement over floor to cement foundation material to the floor;

5. The laying of covering on cement; and

6. The rolling of finished floor to smooth it out and press cement into base and covering;

(X) Terrazzo and Marble Occupational Titles—This subsection sets forth work descriptions for three (3) occupational titles related to terrazzo and marble work.

1. Terrazzo Worker-Marble Mason— The work falling within the occupational title of work description for Terrazzo Worker-Marble Mason includes:

A. The installing of marble, mosaic, venetian enamel**,** and terrazzo; the cutting and assembling of mosaics and art ceramics; the casting of all terrazzo on the job site; all rolling of terrazzo work;

B. The preparing, cutting, layering**,** or setting of metal, composition or wooden strips and grounds on all bedding above concrete floors or walls; and the laying and cutting of metal, strips, lath**,** or other reinforcement, where used in terrazzo work;

C. The installing of cement terrazzo, magnesite terrazzo, dex-o-tex terrazzo, epoxy matrix terrazzo, exposed aggregate. Rustic or rough wash of exterior or interior of buildings. The mixturing or applying of any other kind of mixtures of plastics composed of chips or granules of marble, granite, blue stone, enamel, mother of pearl, quartz ceramic colored quartz, and all other kinds of chips or granules when mixed with cement, rubber, neoprene, vinyl, magnesium chloride**,** or any other resinous or chemical substances used for seamless flooring systems. The applying of binding materials when used on walls, floors, ceilings, stairs, saddles**,** or any other part of the interior or exterior of the building, or other work not considered a part of the building such as fountains, swimming pools;

D. The finishing of cement floors where additional aggregate of stone is added by spreading or sprinkling on top of the finished base and troweled or rolled into the finish and then the surface ground by grinding machines (When no additional stone aggregate is added to the finished mixture, even though the surface may be ground, the work falls within the occupational title of work description for cement masons.); and

E. The carving, cutting**,** and setting of all marble, slate,

including slate backboards, stone, albereen, carrara, sanionyx, vitrolite and similar opaque glass, scaglioa, marbleithic and all artificial, imitation or case marble of whatever thickness or dimension. This *[shall]* **will** apply to all interior work, such as sanitary, decorative and other purposes inside of buildings of every description wherever required, including all polish, honed**,** or sand finish;

2. Marble Finisher—The work falling within the occupational title of work description for Marble Finisher includes:

A. The preparation of floors, and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Marble Mason installation of construction materials on floor and/or walls; the movement of marble installation materials, tools, machines, and work devices to work areas; the erection of scaffolding and related installation structures;

B. The movement of marble slabs for installation; the drilling of holes and the chiseling of channels in edges of marble slabs to install wall anchors, using power drill and chisel; the securing of marble anchors to studding, using and covering ends of anchors with plaster to secure anchors in place;

C. The supply and mixture of construction materials for Marble Mason; the mixture of grout, as required, following standard formulas and using manual or machine mixing methods; the application of grout to installed marble; the movement of mixed mortar or plaster to installation area, manually or using wheelbarrow;

D. The removal of excess grout, using wet sponge; the cleaning of installed marble surfaces, work and storage areas, installation tools, machinery, and work aids, using water and cleaning agents;

E. The modification of mixing, material moving, grouting, polishing, and cleaning metal pieces, using a torch, spatula, and heat sensitive adhesive and filler;

F. The removal of marble installation materials and related debris from immediate work area; the storing of marble, installation material tools, machines, and related items; and

G. The provision of assistance to Marble Mason with the following tasks: bending or forming of wire to form metal anchors, using pliers; inserting anchors into holes of marble slab; securing anchors in place with wooden stakes and plaster; selecting marble slab for installation following numbered sequences or drawings; grinding and polishing marble, using abrasives, chemical and/or manual, in machine grinding and/or polishing techniques, under Marble Mason's direction; the moving and positioning of marble;

3. Terrazzo Finisher—The work falling within the occupational title of work description for Terrazzo Finisher includes:

A. The preparation of floors, and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Terrazzo Worker installation of construction materials on floors, base and/or walls; the moving of terrazzo installation materials, tools, machines, and work devices to area, manually or using wheelbarrow;

B. The supply and mixture of construction materials for Terrazzo Worker; the preparation, mixture by hand, mixture by mixing machine, or transportation of premixed materials and the distribution with shovel, rake, hoe**,** or pail, of all kinds of concrete foundations necessary for mosaic and terrazzo work; the dumping of mixed materials that form base or top surface of terrazzo into prepared installation site, using wheelbarrow; the measuring of designated amounts of ingredients for terrazzo or grout, using graduated containers and scale, following standard formulas and specifications, and the loading of portable mixer using proper means of transport; the mixture of materials according to experience and requests from Terrazzo Worker;

C. The spreading of marble chips or other material over fresh terrazzo surface and the pressing of the material into terrazzo by use of a roller; the application of grout finishes to surfaces of installed terrazzo; the spreading\ of grout across terrazzo to finish surface imperfections, using trowel; the installation of grinding stones in power grinders, using hand tools; the fine grinding and polishing of the surface of terrazzo, when grout has set, using power grinders; the application of curing agent to installed terrazzo to promote even curing, using brush or sprayer; the cutting of grooves in terrazzo stairs, using power grinder, and the filling of grooves with nonskid material;

D. The modification of mixing, grouting, grinding, and cleaning position and the securing of moisture membrane and wire mesh prior to pouring base materials for terrazzo installation;

E. The washing of the surface of polished terrazzo, using cleaner and water, and the application of sealer, according to manufacturer specifications, using brush; the cleaning of the installation site, and storage areas, tools, machines, and equipment; the removal of Terrazzo Worker materials and related debris from immediate work area; and

F. The provision of assistance to Terrazzo Worker with the following tasks: grinding surfaces of cured terrazzo; using power grinders;

*AUTHORITY: section 290.240.2., RSMo [2000] **2016**. Original rule filed Sept. 15, 1992, effective May 6, 1993. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules

PROPOSED AMENDMENT

8 CSR 30-4.010 Applicability and Definitions. The division proposes to amend section (2).

PURPOSE: This amendment serves to reduce unnecessary restrictive language.

(2) As used in 8 CSR 30-4.010–8 CSR 30-4.060, unless the context clearly indicates otherwise, the following terms *[shall]* mean:

*AUTHORITY: sections 290.512, 290.515, 290.517, and 290.523, RSMo [Supp. 2008] **2016**. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 8, 2003, effective April 30, 2004. Rescinded and readopted: Filed Aug. 15, 2008, effective March 30, 2009. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box

*449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules

PROPOSED AMENDMENT

8 CSR 30-4.020 Minimum Wage Rates. The division proposes to amend section (4), delete section (1), and renumber the remaining sections.

PURPOSE: This amendment serves to eliminate outdated and redundant requirements. This amendment also renumbers the regulation in light of the amendments.

[(1) Tipped employees shall receive at least the applicable minimum wages as set forth in this rule, except that the employer may claim gratuities as a credit toward the payment of the required minimum wage. The maximum amount of gratuities that the employer can claim as a credit is fifty percent (50%) of the applicable minimum wage rate. In no event shall the amount of wages and gratuities equal less than the applicable minimum wage, with the difference between the gratuities and the minimum wage being paid by the employer.]

*[(2)]***(1)** Subject to the requirements of sections 290.500 to 290.530, RSMo, at least the minimum wage shall be paid for all hours worked, regardless of the frequency of payment and regardless of whether the wage is paid on an hourly, salaried, commissioned, or any other basis. If, in any workweek, the total wages earned by an employee is less than the applicable minimum wage rate for the total hours worked, the employer shall pay the difference between the total wages earned and the amount required to equal the minimum wage for the total hours worked in the workweek as required under the minimum wage law.

*[(3)]***(2)** The workweek is the seven (7)-day period that is the basis for determining an employee's hourly earnings. Once established, an employer shall not change or manipulate an employee's workweek to evade the requirements of the Missouri Minimum Wage Law.

*[(4)]***(3)** Hourly wages, tips, gratuities, and commissions *[shall be]* **are** counted in the workweek in which the hourly wage, tip, gratuity, or commission is earned to determine if an employee earned at least the minimum wage rate.

*AUTHORITY: sections 290.512, 290.515, and 290.523, RSMo [Supp. 2008] **2016**. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 8, 2003, effective April 30, 2004. Rescinded and readopted: Filed Aug. 15, 2008, effective March 30, 2009. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules

PROPOSED AMENDMENT

8 CSR 30-4.040 Subminimum Wage Rates for the Physically or Mentally Impaired. The division proposes to amend sections (3) and (4).

PURPOSE: This amendment serves to reduce unnecessary restrictive language as well as eliminating outdated and redundant requirements.

(3) Employees affected by a proposed subminimum wage *[shall]* **will** be given reasonable notice of the public hearing and *[shall]* **will** be given the opportunity to submit oral or prepared written testimony concerning, but not limited to, the following:

(4) Subminimum wage rates that are to be considered by the director *[shall]* **will** be duly approved by filing a Notice of Proposed Rulemaking and a subsequent Order of Rulemaking with the secretary of state as provided for state agencies under Chapter 536, RSMo.

*AUTHORITY: sections 290.515 and 290.523, RSMo [Supp. 2008] **2016**. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed Aug. 15, 2008, effective March 30, 2009. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules

PROPOSED AMENDMENT

8 CSR 30-4.050 Valuation of Goods and Services. The division proposes to delete section (2) and renumber the remaining sections.

PURPOSE: This amendment serves to eliminate outdated and redundant requirements. This amendment also renumbers the regulation in light of the amendments.

[(2) The term fair market value as used in this rule means the price which the goods or services in question would bring when offered for sale by one willing but not obliged to sell

it, and when bought by one willing or desirous to purchase it but who is not compelled to do so. The fair market value of the goods and services which are accepted by the employee as wages shall be computed on a weekly basis. Once an accounting has been made of the fair market value of the goods and services accepted by the employee in each workweek, full settlement of the amount owed to the employee shall be made by the employer on each regular payday. The employer shall be required to pay only the difference between the fair market value of the goods and services accepted during the pay period, and the minimum wage otherwise required to be paid.]

*[(3)]***(2)** The following is an illustrative, but not exhaustive, listing of goods and services which are not considered to be for the private benefit of the employee and whose fair market value may not be deducted by the employer as a credit toward the payment of the minimum wage to the employee:

(A) Tools;

(B) Equipment;

(C) Uniforms, including, but not limited to, garments such as suits, dresses, aprons**,** and all other garments whatsoever as worn by the employees as a condition of employment. This apparel of a similar design, color or material, or forming part of the decorative pattern of the establishment or distinguishing the employee as an employee of the concern is presumed to be worn as a condition of employment;

(D) Laundry or cleaning of uniforms;

(E) Maintenance of tools, equipment**,** or uniforms;

(F) Breakage or loss of tools, equipment**,** or uniforms;

(G) Any other item required by the employer to be worn or used by the employee as a condition of employment; and

(H) Transportation furnished to the employee where that transportation is an incident of and necessary to the employment, such as travel costs of railroad maintenance-of-way workers.

*[(4)]***(3)** The following is an illustrative, but not exhaustive, listing of goods and services which are considered to be for the private benefit of the employee and whose fair market value may be deducted by the employer as a credit toward the payment of the minimum wage to the employee:

(A) Meals;

(B) Lodging;

(C) Tuition furnished by a college to its student employees;

(D) Merchandise furnished at company stores and commissaries;

(E) Fuel (including coal, kerosene, firewood**,** and lumber slabs);

(F) Electricity, water**,** and gas furnished for the noncommercial personal use of the employee; and

(G) Transportation furnished to employees between their homes and work, where the transportation is not necessary to the employment.

*AUTHORITY: sections 290.512, 290.515, and 290.517, RSMo [Supp. 1990] **2016**. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules

PROPOSED AMENDMENT

8 CSR 30-4.060 Administrative Complaints; Notices Issued by the Director. The division proposes to amend section (1); delete sections (2), (3), and (4); and renumber the remaining sections.

PURPOSE: This amendment serves to reduce unnecessary restrictive language as well as eliminate outdated and redundant requirements. This amendment also renumbers the regulation in light of the amendments.

(1) An individual who believes that he or she has not been paid the required minimum wage may file a complaint on a form prescribed by the department. The department will not accept anonymous or third-party complaints. A complaint form can be obtained by accessing the department's website at *[www.dolir.mo.gov]* **labor.mo.gov** or by contacting the Division of Labor Standards by phone at (573) 751-3403.

[(2) The department shall have authority to investigate and ascertain the wages of persons employed in any occupation included within the meaning of sections 290.500 to 290.530, RSMo. Employees that are not covered and not required to be paid the minimum wage rate are listed in section 290.500(3), RSMo.

(3) A complainant shall provide and keep the department advised of the complainant's current mailing address and telephone number.

(4) An employer under investigation shall provide the department with a copy of the first page of its most recent income and sales tax returns to determine the applicability of the minimum wage law. The employer shall also keep the department advised of the employer's current mailing address and telephone number.]

*[(5)]***(2)** Upon completion of the department's investigation, the parties *[shall]* **will** be notified of the department's findings.

*[(6)]***(3)** Any employer wishing to establish a training rate for learners and apprentices as permitted by section 290.517, RSMo, shall provide a written request to the director stating the classification of workers it desires to be designated as learners or apprentices. Upon such notice and in the discretion of the director, a hearing will be held consistent with section 290.517, RSMo.

*AUTHORITY: sections 290.517 and 290.523, RSMo [Supp. 2008] **2016**. Original rule filed Aug. 15, 2008, effective March 30, 2009. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 5—Prevailing Wage Arbitration

PROPOSED AMENDMENT

8 CSR 30-5.010 Filing for Arbitration. The division proposes to amend sections (1) and (4).

PURPOSE: This amendment serves to reduce unnecessary restrictive language as well as eliminate outdated and redundant requirements.

(1) *[An employer shall have forty-five (45) days from the date of notice of penalty for violations of sections 290.210 to 290.340, RSMo, to dispute the notice of penalty. Upon receipt of the written notice of dispute from the employer, the department shall notify the employer of its right to arbitration.]* Within ten (10) days of an employer's notification of the right to arbitration, an employer that wishes to arbitrate the matter shall submit to the department a Request for Arbitration (Request) along with any filing fees required by the arbitration service provider. Request for Arbitration forms may be obtained by contacting the Division of Labor Standards. The date of submission of a Request is the date the Request is postmarked or the date the department receives the Request by facsimile. Within ten (10) days of the department's receipt of a request under this rule, the department *[shall]* **will** mail a copy of the Request along with the department's guidelines for arbitration to the American Association of Arbitration (AAA) or other arbitration service provider if the other arbitration service provider is mutually agreed to by the parties. Included in this information *[shall]* **will** be the department's criteria for arbitrators relating to residence and cost per hour.

(4) For any filing or notice deadlines associated with arbitration under this rule that fall on Saturday, Sunday, or a legal holiday, the filing or notice *[shall]* **will** be deemed timely if accomplished on the next day which is neither a Saturday, Sunday, nor a legal holiday.

*AUTHORITY: section 290.240(2), RSMo [2000] **2016**. Emergency rule filed July 19, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed July 19, 2007, effective Feb. 29, 2008. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 5—Prevailing Wage Arbitration

PROPOSED AMENDMENT

8 CSR 30-5.020 Hearing Procedures for Arbitration. The division proposes to amend sections (1), (3), and (5); delete sections (6), (7), (8), and (11); and renumber the remaining sections.

PURPOSE: This amendment serves to reduce unnecessary restrictive language as well as eliminate outdated and redundant requirements. This amendment also renumbers the regulation in light of the amendments.

(1) Date, Time**,** and Site for Arbitration Hearing. All arbitration hearings *[shall]* **will** be held in Jefferson City unless otherwise agreed to by the parties. The parties shall respond to requests for hearing dates from the arbitration service provider within ten (10) days of receipt. Upon the request of either party or the arbitration service provider, the arbitrator *[shall have]* **has** the authority to convene a scheduling conference call and/or issue a Notice of Hearing setting the date, time**,** and place for hearing.

(3) Postponement or Cancellation. The arbitrator, for good cause shown, may postpone or cancel the hearing upon the request of a party or upon his or her own initiative. The parties can also agree to a postponement or cancellation of a hearing. Any postponement or cancellation fees owed to the arbitration service provider and/or the arbitrator shall be paid by the party requesting a postponement or cancellation. If the parties agree to a postponement or cancellation of a hearing, the postponement or cancellation fee shall be divided evenly between the parties. In the event of a cancellation of the arbitration after the commencement of the arbitration hearing, all fees owed to the arbitrator for services rendered shall be paid by the party requesting the cancellation. If an employer resolves the matter after requesting arbitration**,** but prior to an arbitrator's award, such resolution *[shall]* **will** be considered a cancellation of the arbitration and the employer shall pay all fees owed to the arbitrator for services rendered.

(5) Commencement of Hearing. A hearing *[shall]* **will** be opened by the following actions:

(A) Administration of the oath to all parties by the arbitrator; and

(B) Recording of the date, time**,** and place of the hearing and the presence of the arbitrator, the parties, and counsel, if any.

[(6) Evidence.

(A) The parties may offer such evidence as is relevant and material to the dispute and shall produce such additional evidence as the arbitrator may deem necessary to reach an understanding and determination of the dispute. An arbitrator can subpoena any witnesses and any documents upon the request of any party. If a party, or any person or organization within the control of a party, fails to obey a subpoena of an arbitrator, the arbitrator shall treat the evidence requested but not produced as establishing an inference favorable to the position of the party who subpoenaed the item, subject to the opposing party's right to seek an order in Circuit Court quashing or limiting the scope of the subpoena. In the event a party fails to comply with a subpoena, the requesting party may seek to enforce the subpoena in Circuit Court. The arbitrator shall make all decisions regarding the relevance and materiality of the evidence offered and conformity to legal rules of any evidence shall not be necessary. All of the evidence shall be taken in the presence of the arbitrator and all the parties except where any of the parties is absent in default or has waived the right to be present.

(B) All documents that are not filed with the arbitrator before or at the hearing, but arranged at the hearing or subsequently by agreement of the parties to be submitted, shall be filed with the arbitration service provider for transmission to the arbitrator or transmitted to the arbitrator directly if the parties agree. All parties shall be able to inspect the documents and object to their relevance and materiality to the dispute prior to the arbitrator making a determination of their

relevance and materiality.

(7) Exhibits. The arbitrator may receive into evidence exhibits offered by the parties. The names and addresses of all witnesses and exhibits in order received shall be made part of the record. The arbitrator shall afford each party equal opportunity for the presentation of relevant proofs. Final determinations of relevance shall be made by the arbitrator.

(8) Witnesses. Each party shall provide to the opposing party and the arbitrator a list of witnesses that it intends to call to testify or provide written statements. Such list shall be provided to the opposing party and arbitrator at least two (2) business days prior to the hearing. At the discretion of the arbitrator, failure to do so may result in the party's forfeiture of its right to call the witness. If a party wants to add persons to its witness list within two (2) business days of the hearing or at the hearing, the arbitrator may permit the witness to testify if the arbitrator finds it to be in the interest of fairness and relevant.]

*[(9)]***(6)** Recording and Transcripts. All hearings shall be tape-recorded. The tape-recording shall be retained by the arbitrator for a period in concurrence with the statute of limitations for an employee to bring a private action for the recovery of wages. Either party may request a written transcript at any time within this period, and the requesting party will bear the cost of the transcript, unless otherwise agreed by the parties.

*[(10)]***(7)** Communication with the Arbitrator. There shall be no direct communication between the parties and the arbitrator on substantive matters relating to the case other than at oral hearings, unless the parties and the arbitrator agree otherwise. Any other oral or written communication from the parties to the arbitrator shall be directed to the arbitration service provider for transmittal to the arbitrator.

[(11) Closing the Hearing. The arbitrator shall inquire of all parties whether they have any additional exhibits or witnesses to present. The arbitrator shall afford each party the opportunity to present an oral closing statement. Once both parties indicate that they have no more evidence to present or the arbitrator determines that all necessary relevant and non-duplicative evidence has been presented and the record is complete, the arbitrator shall declare the hearing to be closed. If briefs or other documents are to be filed, the hearing shall be declared closed as of the final date set by the arbitrator for filing with the arbitration service provider or directly with the arbitrator. The time limit within which the arbitrator is required to make an award shall begin to run, in the absence of another agreement by the parties, on the closing date of the hearing.]

*AUTHORITY: section 290.240(2), RSMo [2000] **2016**. Emergency rule filed July 19, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed July 19, 2007, effective Feb. 29, 2008. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 5—Prevailing Wage Arbitration

PROPOSED AMENDMENT

8 CSR 30-5.030 Awards by the Arbitrator. The division proposes to amend the purpose and sections (1), (2), (3), and (5).

PURPOSE: This amendment serves to reduce unnecessary restrictive language in the purpose of the rule, as well as the rule itself.

*PURPOSE: This rule establishes guidelines as to when an arbitrator's award [must] **should** be rendered and the form in which it [must] **should** be rendered, the result of a resolution of the controversy prior to an arbitrator's award, the release of arbitration documents for judicial proceedings and a party's recourse for an arbitrator's failure to follow 8 CSR 30-5.010 through 8 CSR 30-5.030.*

(1) Time of Determination.

(B) The determination *[shall]* **will** be deemed to be rendered on the date it is postmarked or otherwise transmitted to the parties by the arbitrator, whether by regular mail or electronically. Decisions cannot be rendered by telephone.

(2) Form of the Arbitration Award. The arbitration award shall be in writing and shall be signed by the arbitrator. A party shall advise the arbitrator in writing, by no later than the conclusion of the hearing, whenever it would like the arbitrator to accompany the arbitration award with an opinion explaining the reasoning for the award. All costs incurred as a result of the opinion shall be paid by the party who requested the opinion. If both parties request the opinion, all costs incurred as a result of the opinion *[shall]* **will** be divided evenly between the parties.

(3) Resolution Prior to Arbitrator's Award. If at any time prior to the arbitrator rendering an award in the matter the employer pays the back wages as determined by the department, the matter *[shall]* **will** be deemed resolved and the proceedings *[shall]* **will** conclude. All costs shall be paid in accordance with 8 CSR 30-5.020(3) and (4) and section (2) of this rule.

(5) Failure to Comply with Determination of Arbitrator. If the employer fails to pay all wages due as determined by the arbitrator within forty-five (45) days following the date the arbitrator's award is rendered, or if the employer fails to exercise the right to seek arbitration, the department may then pursue an enforcement action to enforce the monetary penalty provisions of 290.250.1, RSMo. If the court orders payment of the penalties as prescribed in 290.250.1, RSMo, the department *[shall]* **will** be entitled to recover its actual cost of enforcement from such penalty amount.

*AUTHORITY: section 290.240(2), RSMo [2000] **2016**. Emergency rule filed July 19, 2007, effective Aug. 28, 2007, expired Feb. 28, 2008. Original rule filed July 19, 2007, effective Feb. 29, 2008. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

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

PROPOSED AMENDMENT

8 CSR 30-6.010 Reduction in Minimum Wage Based on Physical or Mental Disabilities. The division proposes to amend the original purpose statement of the rule.

PURPOSE: This amendment serves to reduce unnecessary restrictive language in the purpose section of this regulation.

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

AUTHORITY: section 290.515, RSMo [Supp. 2008] ***2016****. Emergency rule filed June 1, 2009, effective June 11, 2009, expired Dec. 7, 2009. Original rule filed June 1, 2009, effective Nov. 30, 2009. Amended: Filed June 19, 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 Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 1—Director's Office
Chapter 3—Consolidation of Permit Processing

PROPOSED AMENDMENT

10 CSR 1-3.010 Consolidation of Permit Processing. The department is amending section (1), to delete the last sentence of the rule.

PURPOSE: This amendment removes unnecessary requirements specifying how the department and a permittee will comply with section 640.017, RSMo, and provides flexibility when the consolidated permitting process is used.

(1) Whenever a facility or activity requires more than one (1) environmental permit administered by the department, an applicant may request, or the department may offer, a unified permitting schedule that covers the timing and order to obtain such permits, as provided in section 640.017, RSMo. Upon agreement between the applicant and the department, the processing of permit applications would then be administered pursuant to that section. *[When multiple permits are placed on public notice, the public comment period for such permits shall not be shorter than the longest individual comment period required for any of the permits involved or half of the total sum of days required by the individual comment periods for the permits involved, whichever is greater, and the comment period may be extended upon request.]*

AUTHORITY: section 640.017, RSMo [Supp. 2009] ***2016****. Original rule filed Sept. 24, 2009, effective May 30, 2010. Amended: Filed June 26, 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 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, attention to Stuart Baker at PO Box 176, Jefferson City, MO 65102-0176 or via email to Stuart.Baker@dnr.mo.gov. A public hearing will be held on September 18, 2018, at 1:00 PM at the Department of Natural Resources, 1101 Riverside Drive, Jefferson City, MO. To be considered, comments must be received by the end of the public comment period on August 31, 2018.

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

PROPOSED AMENDMENT

10 CSR 10-2.205 Control of Emissions From Aerospace Manufacture and Rework Facilities. The commission proposes to amend the rule purpose; sections (1) and (5); and subsections (2)(A), (2)(C), (2)(E)–(2)(H), (2)(K), (2)(M), (2)(N), (2)(R), (3)(E)–(3)(H), and (3)(L); renumber (4)(B)2.D.; and add new subsection (2)(U). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this amendment is to eliminate redundant requirements by exempting source operations regulated under the state's hazardous waste rules from certain solvent handling provisions of this rule. At the same time, this amendment will remove unnecessary use of restrictive words, update definitions specific to this rule, update/add incorporations by reference as applicable, make minor numbering corrections, and make other minor changes. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is a comment dated October 8, 2013 from an industry representative in the Air Program Advisory Forum's Rule Review Workgroup and Executive Order 17-03 Red Tape Reduction Review and related comments.

PURPOSE: This rule[making] will reduce volatile organic compound

emissions from aerospace manufacture and/or rework facilities located in the Kansas City ozone maintenance area. This rule[making] is required to comply with the Clean Air Act Amendments of 1990. [The RSMo 536.016 requirement for necessity evidence is the Kansas City Ozone Maintenance Plan adopted February 3, 1998, and Section 182 of the Clean Air Act.]

(1) Applicability.

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

(B) The requirements of this rule*[making shall]* apply to all aerospace manufacture and/or rework facilities with potential emissions of volatile organic compounds (VOC) exceeding twenty-five (25) tons per year.

(2) Definitions.

(A) *[Definitions of individual specialty coatings specified in this rule are incorporated by reference from]* **Specialty coating definitions in** 40 CFR 63 Subpart GG, Appendix A, *[with the following modifications:]* **promulgated as of July 1, 2018, with the exception of "mold release" and "caulking and smoothing compound," apply and are hereby incorporated by reference in this rule, as published by the Office of Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions. The following two (2) definitions, as defined below, shall be used for this rule:**

1. Mold release—A coating applied to a mold surface to prevent the mold piece from sticking to the mold as it is removed, or to an aerospace component for purposes of creating a form-in-place seal*[.]***; and**

2. Caulking and smoothing compound—A semi-solid material that is used to aerodynamically smooth exterior vehicle surfaces or fill cavities such as bolt hole accesses*[. A material shall not be classified as a caulking and smoothing compound if it]***, excluding materials that** can be classified as a sealant.

(C) Aerospace vehicle or component—Any fabricated part, processed part, assembly of parts, or completed unit, with the exception of electronic components, of any aircraft **including, but not limited to, airplanes, helicopters, missiles, rockets, and space vehicles**.

(E) Aqueous *[cleaning]* solvent—A cleaning solution in which water is the primary ingredient (greater than eighty percent (80%) by weight of cleaning solvent solution as applied must be water). Detergents, surfactants, and bioenzyme mixtures and nutrients may be combined with the water along with a variety of additives such as organic solvents (e.g. high boiling point alcohols), builders, saponifiers, inhibitors, emulsifiers, pH buffers, and antifoaming agents. Aqueous solutions must have a flash point greater than ninety-three degrees Celsius (93 °C) (two hundred degrees Fahrenheit (200 °F)) (as reported by the manufacturer) and the solution must be miscible with water.

(F) Chemical milling maskants—A coating that is applied directly to aluminum components to protect surface areas when chemical milling the component with a Type I or Type II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant. This definition does not include bonding maskants, critical use and line sealer maskants, and seal coat maskants. Maskants that must be used with a combination of Type I or Type II etchants and any of the above types of maskants **(i.e., bonding, critical use and line sealer, and seal coat)** are also not included in this definition.

(G) Energized electrical systems—Any **alternating current (**AC**)** or **direct current (**DC**)** electrical circuit on an assembled aircraft once electrical power is connected, including interior passenger and cargo areas, wheel wells, and tail sections.

(H) Flush cleaning—The removal of contaminants such as dirt, grease, and coatings from an aerospace vehicle or component or coating equipment by passing solvent over, into, or through the item being cleaned. The solvent may simply be poured into the item cleaned and then drained, or be assisted by air *[or]***, compressed gas,** hydraulic pressure, or by pumping. **Spray gun cleaning or** *[H]***h**and-wipe cleaning operations where wiping, scrubbing, mopping, or other hand actions are used are not included in this definition.

(K) High volume low pressure (HVLP) spray equipment—Spray equipment *[that is]* used to apply coating by means of spray gun that operates at ten pounds per square inch gauge (10 psig) of atomizing air pressure or less at the air cap.

(M) Primer—The first layer and any subsequent layers of identically formulated coating applied to the *[surface of an aerospace vehicle or component. Primers are typically used for corrosion prevention, protection from the environment, functional fluid resistance, and adhesion of subsequent coatings]* **article to provide corrosion resistance, surface etching, surface leveling, adhesion promotion, or other property depending on the end use or exposure of the final product**. Primers that are defined as specialty coatings are not included under this definition.

(N) Self-priming topcoat—A topcoat that is applied directly to *[an uncoated aerospace]* **a** vehicle or component for purposes of corrosion prevention, environmental protection, and function fluid resistance. More than one (1) layer of identical coating formulation may be applied to the vehicle or component.

(R) Touch-up and repair operation—That portion of the coating operation that is the incidental application of *[coating]* **finishing materials** used to cover minor imperfections in the coating finish or to achieve complete coverage. This definition includes out-of-sequence or out-of-cycle coating.

(U) Waterborne (water-reducible) coating—Any coating that contains more than five percent (5%) water by weight as applied in its volatile fraction.

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

(3) General Provisions.

(E) Each owner or operator of an aerospace manufacturing and/or rework operation shall comply with the following housekeeping requirements for any affected cleaning operation, unless the cleaning solvent used is an aqueous *[cleaning]* solvent, low vapor pressure hydrocarbon-based cleaning solvent, or contains less than one percent (1%) VOC by weight*[:]***. Hazardous waste under regulation 10 CSR 25-4.261 that is subject to the hazardous waste generators standards of 10 CSR 25-5.262 or the solvent wipe conditional exclusion requirements of 40 CFR 261.4(a)(26) or (b)(18), as incorporated in 10 CSR 25-4.261, is exempt from the requirements of paragraphs (3)(E)1. through (3)(E)3. below:**

1. Solvent-laden cloth, paper, or any other absorbent applicators used for cleaning shall be placed in bags or other closed containers upon completing their use. These bags and containers must be kept closed at all times except when depositing or removing these materials from the container. The bags and containers used must be of such a design so as to contain the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning operations are exempt from this requirement;

2. All fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations shall be stored in closed containers; and

3. The handling and transfer of cleaning solvent to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh **or** spent cleaning solvents shall be conducted in such a manner that spills are minimized.

(F) Each owner or operator of an aerospace manufacturing and/or rework operation utilizing hand-wipe cleaning operations excluding the cleaning of spray gun equipment performed in accordance with subsection (3)(G) shall comply with one (1) of the following:

1. Utilize cleaning solvent solutions that are classified as an aqueous *[cleaning]* solvent and/or a low vapor pressure hydrocarbon-based

cleaning solvent; or

2. Utilize cleaning solvent solutions that have a composite vapor pressure of forty-five (45) mmHg or less at twenty degrees Celsius (20 °C).

(G) Each owner or operator of an aerospace manufacturing and/or rework operation shall clean all spray guns used in the application of primers, topcoats (including self-priming topcoats), and specialty coatings utilizing one **(1)** or more of the following techniques:

1. Enclosed system. **Clean** *[S]***s**pray guns *[shall be cleaned in]* **within** an enclosed system that is closed at all times except when inserting or removing the spray gun. *[Cleaning shall consist of forcing cleaning solvent through the gun.]* If leaks in the system are found, repairs shall be made as soon as practicable, but no later than fifteen (15) days after the leak was found. If the leak is not repaired by the fifteenth day after detection, the cleaning solvent shall be removed and the enclosed cleaner shall be shut down until the leak is repaired or its use is permanently discontinued;

2. Nonatomized cleaning. **Clean** *[S]***s**pray guns *[shall be cleaned]* by placing cleaning solvent in the pressure pot and forcing it through the gun with the atomizing cap in place. No atomizing air is to be used. The cleaning solvent from the spray gun shall be directed into a vat, drum, or other waste container that is closed when not in use;

3. Disassembled spray gun cleaning. **Clean** *[S]***s**pray guns *[shall be cleaned]* by disassembling and cleaning the components by hand in a vat, which shall remain closed at all times except when in use. Alternatively, the components *[shall]* **may** be soaked in a vat, which shall remain closed during the soaking period and when not inserting or removing components; and

4. Atomizing cleaning. **Clean** *[S]***s**pray guns *[shall be cleaned]* by forcing the cleaning solvent through the gun and directing the resulting atomized spray into a waste container that is fitted with a device designed to capture the atomized cleaning solvent emissions.

(H) Each owner or operator of an aerospace manufacturing and/or rework operation that includes a flush cleaning operation shall empty the used cleaning solvents each time aerospace parts or assemblies, or components of a coating unit with the exception of spray guns are flush-cleaned into an enclosed container or collection system that is kept closed when not in use or into a system with equivalent emission control approved by the director. Aqueous, semi-aqueous, *[and]* low vapor pressure hydrocarbon-based solvent materials**, and all wastes that are determined to be hazardous waste under regulation 10 CSR 25-4.261 and that are subject to the hazardous waste generators standards of 10 CSR 25-5.262** are exempt from the requirements of this **sub**section.

(L) The following cleaning operations are exempt from the requirements of subsection (3)(F) of this rule:

1. Cleaning during the manufacture, assembly, installation, maintenance, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen;

2. Cleaning during the manufacture, assembly, installation, maintenance, or testing of parts, subassemblies, or assemblies that are exposed to strong oxidizers or reducers (e.g., nitrogen tetroxide, liquid oxygen, or hydrazine);

3. Cleaning and surface activation prior to adhesive bonding;

4. Cleaning of electronic parts and assemblies containing electronic parts;

5. Cleaning of aircraft and ground support equipment fluid systems that are exposed to the fluid including air-to-air heat exchangers and hydraulic fluid systems;

6. Cleaning of fuel cells, fuel tanks, and confined spaces;

7. Surface cleaning of solar cells, coating optics, and thermal control surfaces;

8. Cleaning during fabrication, assembly, installation, and maintenance of upholstery, curtains, carpet, and other textile materials used in the interior of the aircraft;

9. Cleaning of metallic and non-metallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and cleaning of the completed cores used in the manufacture or maintenance of aerospace vehicles or components;

10. Cleaning of aircraft transparencies, polycarbonate, or glass substrates;

11. Cleaning and solvent usage associated with research and development, quality control, and laboratory testing;

12. Cleaning operations, using nonflammable liquids, conducted within five feet (5') of energized electrical systems; and

13. Cleaning operations identified as essential uses *[under the Montreal Protocol]* **in 40 CFR 82.4** for which the U.S. Environmental Protection Agency has allocated essential use allowances or exemptions.

(4) Reporting and Record Keeping.

(B) Record Keeping Requirements.

1. Each owner or operator of an aerospace manufacture and/or rework operation that applies coatings listed in subsection (3)(A) of this rule shall—

A. Maintain a current list of coatings in use with category and VOC content as applied;

B. Record each coating volume usage on a monthly basis; and

C. Maintain records of monthly volume-weighted average VOC content for each coating type included in averaging for coating operations that achieve compliance through coating averaging under paragraph (3)(B)2. of this rule.

2. Each owner or operator of an aerospace manufacture and/or rework operation that uses cleaning solvents subject to this rule shall—

A. Maintain a list of materials with corresponding water contents for aqueous and semi-aqueous hand-wipe cleaning solvents;

B. Maintain a current list of cleaning solvents in use with their respective vapor pressure or, for blended solvents, VOC composite vapor pressure for all vapor pressure compliant hand-wipe cleaning solvents. This list shall include the monthly amount of each applicable solvent used; and

C. Maintain a current list of exempt hand-wipe cleaning processes for all cleaning solvents with a vapor pressure greater than forty-five (45) mmHg used in exempt hand-wipe cleaning operations. This list shall include the monthly amount of each applicable solvent used.

*[D.]***3.** All records must be kept on-site for a period of five (5) years and made available to the department upon request.

(5) Test Methods.

(A) An owner or operator of an aerospace manufacture and/or rework operation shall determine compliance for coatings which are not waterborne (water-reducible)*[,]* **and** determine the VOC content of each formulation less water and less exempt solvents as applied using manufacturer's supplied data or Method 24 of 40 CFR *[part]* 60, Appendix A**, as specified in 10 CSR 10-6.030(22)**. If there is a discrepancy between the manufacturer's formulation data and the results of the Method 24 analysis, compliance *[shall be based on]* **is determined by** the results from the Method 24 analysis. For waterborne (water-reducible) coatings, manufacturer's supplied data alone can be used to determine the VOC content of each formulation.

(B) An owner or operator of an aerospace manufacture and/or rework operation shall determine compliance for cleaning solvents using the following:

1. For aqueous and semi-aqueous *[cleaning]* solvents manufacturers' supplied data shall be used to determine the water content; or

2. For hand-wipe cleaning solvents required in subsection (3)(F) of this rule, manufacturers' supplied data or standard engineering reference texts or other equivalent methods shall be used to determine the vapor pressure or VOC composite vapor pressure for blended cleaning solvents.

(C) An owner or operator of an aerospace manufacture and/or rework operation electing to demonstrate compliance with this rule

by use of control equipment meeting the requirements of paragraph (3)(B)3. of this rule, shall demonstrate the required capture efficiency in accordance with EPA methods 18, 25, and/or 25A in 40 CFR 60, Appendix A**, as specified in 10 CSR 10-6.030(22)**.

*AUTHORITY: section 643.050, RSMo [Supp. 1999] **2016**. Original rule filed Aug. 4, 2000, effective March 30, 2001. Amended: Filed June 21, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., September 27, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., October 4, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED AMENDMENT

10 CSR 10-2.230 Control of Emissions From Industrial Surface Coating Operations. The commission proposes to amend existing sections (1)–(6) into new sections (1)–(5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This regulation restricts volatile organic compound emissions from industrial surface coating operations. The purpose of this amendment is to remove unnecessary restrictive words, add exemptions, add definitions, correct test method references, remove obsolete requirements specific to sources that have closed, change sections to the standard rule format, and make minor clarifications and grammatical changes. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction review and 536.175, RSMo, and related comments.

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

(A) This regulation *[shall apply]* **applies** only in Clay, Jackson**,** and Platte Counties.

(B) This regulation *[shall apply]* **applies** to any installation with an uncontrolled potential to emit greater than 6.8 kilograms per day (kg/day) or 2.7 tons per year of volatile organic compounds (VOC) from industrial surface coating operations covered under this rule. *[This includes any installation which does not have an allowable VOC emission limit established under 10 CSR 10-6.060 or legally enforceable state implementation plan revision and has uncontrolled potential emissions greater than or equal to 6.8 kg/day or 2.7 tons per year.]* The uncontrolled potential emit is the potential emissions (as defined) plus the VOC removed by emission control devices.

(C) This regulation is not applicable to the *[surface coating of the]* following *[metal parts and products]*:

1. Exterior refinishing of airplanes;

2. Automobile refinishing;

3. Customizing top coating of automobiles and trucks, if production is less than thirty-five (35) vehicles per day; *[and]*

4. Exterior of marine vessels*[.]***;**

5. Surface coating that is part of janitorial, building, and installation maintenance operations;

6. Research and development, performance testing, and quality control of coatings and surface coated products;

7. Aerosol coating products subject to 40 CFR 59 subpart C or E;

8. Field application of architectural coatings to buildings, building components, and stationary structures;

9. Powder coatings;

10. Surface coating and cleaning of aerospace vehicles or components at an aerospace manufacture or rework facility that—

A. Is subject to the requirements and/or aerospace specific exemptions of 10 CSR 10-2.205; or

B. Is not subject to 10 CSR 10-2.205 because the installation's potential to emit VOCs from aerospace surface coating and cleaning is twenty-five (25) tons per year or less;

11. Application and storage of coatings subject to 49 CFR 59 subpart D;

12. Printing operations subject to the requirements of 10 CSR 10-2.290 or 10 CSR 10-2.340;

13. Surface coating and cleaning of articles used for internal company operations including, but not limited to, work stands; scaffolding; jigs; tooling; dollies; tow bars; aircraft ground support equipment; portable equipment used for maintenance, testing, fabrication, or repair; toolboxes; storage bins; shelving; and other manufacturing or warehouse support items;

14. Adhesives and sealants that contain less than 0.17 pounds of VOC per gallon of coating (less water and exempt compounds) as applied;

15. Cyanoacrylate adhesives;

16. Adhesives, sealants, adhesive primers, and sealant primers that are supplied by the manufacturer or supplier in containers with a net volume of sixteen (16) fluid ounces or less, or a net weight of one (1) pound or less, except plastic cement welding adhesives and contact adhesives;

17. Contact adhesives that are supplied by the manufacturer or supplier in containers with a net volume of one (1) gallon or less;

18. Adhesives, sealants, adhesive primers, sealant primers, surface preparation, and cleanup solvents used in the following operations:

A. Tire repair operations, provided the adhesive is labeled for tire repair only;

B. Assembly, repair, and manufacture of aerospace or undersea-based weapon systems components;

C. Plastic solvent welding operations used in the manufacture of medical devices or in the manufacture of medical equipment; and

D. Plaque laminating operations in which adhesives are used to bond clear, polyester acetate laminate to wood with lamination equipment installed prior to July 1, 1992; and

19. Military specification coatings that meet the following criteria:

A. The coating is applied only to military equipment used for national defense;

B. The coating performance is critical to the successful operation of the military equipment; and

C. The coating is mandated in a specification or contract and a substitution of coatings is not allowed.

(2) Definitions.

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

(B) Adhesive primer—A product intended by the manufacturer for application to a substrate, prior to the application of an adhesive, to provide a bonding surface.

(C) Air-dried coating—The coatings dried by the use of air or forced warm air at temperatures up to ninety degrees Celsius (90 °C) (one hundred ninety-four degrees Fahrenheit (194 °F)).

(D) Architectural coating—A coating recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. This definition excludes adhesives and coatings recommended by the manufacturer or importer solely for shop applications or solely for application to nonstationary structures, such as airplanes, ships, boats, and railcars.

(E) Automobile—A four (4)-wheel passenger motor vehicle or derivative capable of seating no more than twelve (12) passengers.

(F) Clear coat—A coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color. This term also includes corrosion preventative coatings used for the interior of drums or pails.

(G) Coating applicator—An apparatus used to apply a surface coating.

(H) Coating line—One (1) or more apparatus or operations which include a coating applicator, flash-off area, and oven where a surface coating is applied, dried, or cured, or a combination of these.

(I) Contact adhesive—A contact adhesive does not include rubber cements that are primarily intended for use on paper substrates. Contact adhesive also does not include vulcanizing fluids that are designed and labeled for tire repair only. A contact adhesive is an adhesive that—

1. Is designed for application to both surfaces to be bonded together;

2. Is allowed to dry before the two (2) surfaces are placed in contact with each other;

3. Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other; and

4. Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

(J) Cyanoacrylate adhesive—An adhesive with a cyanoacrylate content of at least ninety-five percent (95%) by weight.

(K) Drum—Any cylindrical container of thirteen to one hundred ten (13–110)-gallon capacity.

(L) End seal compound—The gasket forming coating used to attach the end pieces of a can during manufacturing or after filling with contents.

(M) Extreme performance coating—A coating used on a metal or plastic surface where the coated surface is, in its intended use, subject to the following:

1. Chronic exposure to corrosive, caustic, or acidic agents, chemicals, chemical fumes, chemical mixtures, or solutions;

2. Repeated exposure to temperatures in excess of two hundred fifty degrees Fahrenheit (250 °F); or

3. Repeated heavy abrasion, including mechanical wear and repeated scrubbing with industrial grade solvents, cleansers, or scouring agents.

(N) Fabric coating—A coating applied to a textile substrate by dipping or by means of a knife or roll.

(O) Final repair—The final coatings applied to correct topcoat imperfections after the complete assembly of the automobile.

(P) Flash-off area—The space between the application area and the oven.

(Q) Industrial surface coating operation—The surface coating of manufactured items intended for distribution in commerce to persons other than the person or legal entity performing the surface coating.

(R) Interior body spray—The surface coating for the interior and ends of a two (2)-piece formed can or the surface coating of the side of the rectangular material to be used as the interior and ends of a three (3)-piece can.

(S) Light-duty truck—Any motor vehicle rated at eight thousand five hundred pounds (8,500 lbs.) gross vehicle weight or less or a derivation of this vehicle which is designed primarily for the purpose of transportation of property.

(T) Marine vessel—A craft capable of being used as a means of transportation on water, except amphibious vehicles.

(U) Pail—Any nominal cylindrical container of one to twelve (1–12)-gallon capacity.

(V) Primer—The first surface coating applied to the surface.

(W) Primer-surfacer—The surface coatings applied over the primer and beneath the topcoat.

(X) Sheet basecoat—The roll coated primary interior surface coating applied to surfaces for the basic protection of buffering filling material from the metal can surface.

(Y) Topcoat—The surface coating applied for the purpose of establishing the color of protective surface, or both, including ground coat and paint sealer materials, base coat, and clear coat.

(Z) Transfer Efficiency (TE)—Ratio of the amount of coating solids transferred onto a product to the total of coating solids used. In any surface coating operation, TE is the ratio of solids in a coating that adhere on a target surface to the total solids used in the process for coating the target surface.

(AA) Vinyl coating—The application of a decorative or protective topcoat, or printing or vinyl-coated fabric or vinyl sheet.

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

(3) General Provisions. No person shall emit to the atmosphere any VOC from any **industrial** surface coating operation in excess of the amount allowed in *[section (4)]* **subsections (3)(A) and (3)(B) of this rule**. *[This section will]* **The following emission limits and compliance dates** apply *[across]* **to** all application areas, flash-off areas**,** and ovens used in an affected **industrial surface** coating operation.

[(4) Tables of Emission Limitations and Dates of Compliance.]

(A) Table A: VOC Emission Limits Based on Solids Applied.

Surface Coating Operations	Emission Limit # VOC/gal Solids Applied	Dates of Compliance (See Note 1)
Auto/light duty truck		
*Ford Motor Company		
Primer Surfacer	15.1	12/24/87
Topcoat (passenger)	15.1	12/31/88
Topcoat (truck) (See Note 2)	15.1	12/31/88
[General Motors Car		
Primer Surfacer	*15.1*	*12/31/87*
Topcoat	*15.1*	*12/31/87]*

(B) Table B: VOC Emission Limits Based on Weight of VOC per Gallon of Coating (minus water and non-VOC organic compounds).

Surface Coating Operation	Emission Limit # VOC/gal Coating (minus water) and non-VOC Organic Compounds	Dates of Compliance (See Note 1)
Large Appliance		
*Topcoat	2.8	12/31/81
Final Repair	6.5	12/31/81
Magnet wire	1.7	12/31/81
Metal furniture	3.0	12/31/81
Auto/light duty truck		
Ford Motor Company		
Electrocoat prime	1.2	12/31/82
Topcoat (truck)	3.6	12/31/85
Topcoat (passenger)	3.6	12/31/86
Final Repair	4.8	12/31/85
Miscellaneous		
Metal Parts—		
Extreme Performance **Coating** and		
Air-Dried Coatings	3.5	12/31/82
All Other Coatings	3.0	12/31/82
[General Motors Car		
Cathodic Electrocoat	*1.2*	*12/31/82*
Primer Surfacer	*3.0*	*12/31/80*
Topcoat	*5.8*	*12/31/79*
	5.0	*12/31/81*
Final Repair	*6.5*	*7/01/79*
	4.8	*12/31/87*
Plastic Fascia Topcoat	*4.5*	*11/23/87*
Miscellaneous		
Metal Parts—		
Extreme Performance and		
Air-Dried Coatings	*3.5*	*12/31/82*
All Other Coatings	*3.0*	*12/31/82]*
Paper	2.9	12/31/81
Vinyl **Coating**	3.8	12/31/81
Fabric **Coating**	2.9	12/31/81
Coil	2.6	12/31/81
Can		
2 piece exterior,	4.0	12/31/82
sheet basecoat	2.8	12/31/85
2 and 3 piece		
interior body spray	4.2	12/31/82
2 piece end exterior	4.2	12/31/82
3 piece side seam	5.5	12/31/82
End Seal Compound	4.2	12/31/82
	3.7	12/31/85
Railroad Cars, Farm		
Implements, Machinery		
and Heavy-Duty Trucks	3.5	12/31/82
Other Metal Parts		
Clear Coat	4.3	12/31/82
Extreme Performance		
Coat and Air-Dried		
Coating	3.5	12/31/82
Other Coatings	3.0	12/31/82

Note 1—The emission limit associated with the latest compliance date for each surface coating process supersedes interim emission limits associated with earlier compliance dates.

Note 2—A formal commitment submitted to and received by the director prior to 12/31/88 to construct or modify the truck topcoat surface coating operation no later than 12/31/90 to meet the provisions of 10 CSR 10-6.070 or 40 CFR 60 Subpart MM, whichever is more stringent, may be substituted for this emission limitation. The emission limit specified by the rules referenced in this note is 12.3 lbs. VOC per gallon of solids applied.

[(5) Determination of Compliance. Compliance with section (4) of this regulation shall be determined by the methods in subsections (5)(A)–(C) as applicable and appropriate.

(A) For subsection (4)(A), the calculation of daily volume-weighted emission performance for automobile and light-duty truck primer-surfacer and topcoat operations, shall be made according to procedures detailed in the Environmental Protection Agency (EPA) document entitled Protocol for Determining the Daily Volatile Organic Compound Emission Rate for Automobile and Light-Duty Truck Topcoat Operations dated June 10, 1988.

(B) For subsection (4)(B)—

1. Compliance with emission limits may be demonstrated using the method referenced in 10 CSR 10-6.030(14)(C) using the one (1)-hour bake. Emission performance shall be on the basis of a daily volume-weighted average of all coatings used in each surface coating operation as delivered to the coating applicator(s) on a coating line. The daily volume-weighted average ($DAVG_{VW}$) is calculated by the following formula:

$$DAVG_{VW} = \frac{\sum_{i=1}^{n} (A_i \times B_i)}{C}$$

Where: A = daily gal. each coating used (minus water and exempt solvents) in a surface coating operation.

B = lbs. VOC/gal coating (minus water and exempt solvents).

C = total daily gal. coating used (minus water and exempt solvents) in a surface coating operation.

n = number of all coating used in a surface coating operation;

or

2. Compliance with the emission limits in subsection (4)(B) may be demonstrated on pounds of VOC per gallon of coating solids basis. The demonstration is made by first converting the emission limit in subsection (4)(B) to pounds of VOC per gallon of coating solids as shown in the following three (3) steps:

1) (lbs. VOC per gallon of coating minus water & exempt solvents) / (Emission Limit from (4)(B)) = volume fraction of VOC

7.36 lbs. per gallon (average density of solvents used to originally establish the emission limit)

2) 1 − Volume fraction of VOC = Volume fraction of solids

3) (lbs. VOC per gallon of coating minus water & exempt solvents) / (Emission Limit from (4)(B)) = lbs. VOC / gallon of coating solids

volume fraction of solids

This value is the new compliance figure. The VOC per gallon of coating solids for each coating used is then determined using the method referenced in 10 CSR 10-6.030(14)(C) using the one (1)-hour bake. The composite daily volume-weighted average of pounds of VOC per gallon of coating solids as tested for in the actual coatings used is compared to the new compliance figure. Source operations on a coating line using coatings with a composite actual daily volume-weighted average value less than or equal to the new compliance figure are in compliance with this regulation.

(C) As an alternative to the methods specified in subsections (5)(A) and (B), compliance with the emission limits specified in subsections (4)(A) and (B) may be demonstrated by the implementation of an emission reduction equivalency compliance plan which utilizes a daily weighted average of emissions from a single or combination of source operations provided that—

1. All source operations involved in the plan are subject to the emission limits of this regulation;

2. All source operations are part of the same installation;

3. The total actual VOC emissions for each twenty-four (24)-hour period do not exceed the sum of the allowable emissions determined from section (4) for each source operation for the same period;

4. Equivalent emission reductions are accomplished in the time intervals allowed in subsection (4)(B) as would be required for individual source operations;

5. After December 24, 1987, testing of raw materials, emissions, equipment, or a combination of these, must be performed prior to initiation of an alternate compliance plan to verify any equivalent emission reductions claimed. All test methods and procedures to be acceptable for use in the equivalency determination must receive prior review and must have been approved by the director. Failure to gain test method and procedure approval of the director will invalidate the equivalency claim; and

6. The overall plan is approved by the director.]

*[(6)]***(4) Reporting and** Record Keeping.

(A) The owner or operator of a coating line shall keep records detailing specific VOC sources, as necessary to determine compliance. These may include:

1. The type and the quantity of coatings used daily;

2. The coating manufacturer's formulation data for each coating on forms provided or approved by the director;

3. The type and quantity of solvents for coating, thinning, purging**,** and equipment cleaning used daily;

4. All test results to determine capture and control efficiencies, transfer efficiencies**,** and coating makeup;

5. The type and quantity of waste solvents reclaimed or discarded daily;

6. The quantity of pieces or materials coated daily; and

7. Any additional information pertinent to determine compliance.

(B) Records, such as daily production rates, may be substituted for actual daily coating use measurement provided the owner submits a demonstration approvable by the director that these records are adequate for the purposes of this regulation. This will apply for all surface coating industries until the **U.S. Environmental Protection Agency (**EPA**)** issues national daily emissions record keeping protocols for specific industrial classifications.

(C) *[Records required under subsections (6)(A) and (B) shall be retained by the owner or operator for a minimum of two (2) years. These records shall be made available to the director upon request.]* **Owners or operators shall retain records for a minimum of two (2) years and make the records available to the director upon request.**

(5) Test Methods. Use the methods in subsections (5)(A)–(C) as applicable and appropriate to determine compliance with section (3) requirements.

(A) To calculate the daily volume-weighted emission performance for automobile and light-duty truck primer-surfacer and topcoat operations for subsection (3)(A), use the procedures in the EPA document, *Protocol for Determining the Daily Volatile Organic Compound Emission Rate for Automobile and Light-Duty Truck Topcoat Operations* as incorporated by reference in 10 CSR 10-6.030(20).

(B) For subsection (3)(B)—

1. Compliance with emission limits may be demonstrated with EPA Method 24 as specified in 10 CSR 10-6.030(22) using the one (1)-hour bake. Emission performance is based on the daily volume-weighted average of all coatings used in each industrial surface coating operation as delivered to the coating applicator(s) on a coating line. The daily volume-weighted average ($DAVG_{VW}$) is calculated by the following formula:

$$DAVG_{VW} = \frac{\sum_{i=1}^{n} (A_i \times B_i)}{C}$$

Where: A = daily gal. each coating used (minus water and exempt solvents) in an industrial surface coating operation.

B = lbs. VOC/gal coating (minus water and exempt solvents).

C = total daily gal. coating used (minus water and exempt solvents) in an industrial surface coating operation.

n = number of all coating used in an industrial surface coating operation; or

2. Compliance with the emission limits in subsection (3)(B) may be demonstrated on pounds of VOC per gallon of coating solids basis. The demonstration is made by first converting the emission limit in subsection (3)(B) to pounds of VOC per gallon of coating solids as shown in the following three (3) steps:

1)	**lbs. VOC per gallon of coating minus water & exempt solvents** / **7.36 lbs. per gallon**	**(Emission Limit from (3)(B))** / **(average density of solvents used to originally establish the emission limit)**	**=**	**volume fraction of VOC**
2)	**1 – Volume fraction of VOC**	**=**		**Volume fraction of solids**
3)	**lbs. VOC per gallon of coating minus water & exempt solvents**	**(Emission Limit from (3)(B)) volume fraction of solids**	**=**	**lbs. VOC / gallon of coating solids**

This value is the new compliance figure. The VOC per gallon of coating solids for each coating used is then determined with EPA Method 24 as specified in 10 CSR 10-6.030(22) using the one (1)-hour bake. The composite daily volume-weighted average of pounds of VOC per gallon of coating solids as tested for the actual

coatings used is compared to the new compliance figure. Source operations on a coating line using coatings with a composite actual daily volume-weighted average value less than or equal to the new compliance figure are in compliance with this regulation.

(C) As an alternative to the methods specified in subsections (5)(A) and (B), compliance with the emission limits specified in subsections (3)(A) and (B) may be demonstrated by the implementation of an emission reduction equivalency compliance plan, which utilizes a daily weighted average of emissions from a single or combination of source operations provided that—

1. All source operations involved in the plan are subject to the emission limits of this regulation;

2. All source operations are part of the same installation;

3. The total actual VOC emissions for each twenty-four (24)-hour period do not exceed the sum of the allowable emissions determined from section (3) for each source operation for the same period;

4. Equivalent emission reductions are accomplished in the time intervals allowed in subsection (5)(B);

5. After December 24, 1987, testing of raw materials, emissions, equipment, or a combination of these, shall be performed prior to initiation of an alternate compliance plan to verify any equivalent emission reductions claimed. Director approval prior to review is necessary for all test methods and procedures to be acceptable for use in the equivalency determination. Failure to gain test method and procedure approval of the director will invalidate the equivalency claim; and

6. The overall plan is approved by the director.

*AUTHORITY: section 643.050, RSMo [1986] **2016**. Original rule filed Dec. 15, 1978, effective July 12, 1979. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., September 27, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., October 4, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED AMENDMENT

10 CSR 10-5.220 Control of *Emissions During* Petroleum Liquid Storage, Loading, and Transfer. The commission proposes to amend the rule title, sections (1)–(3) and (5), and subsection (4)(B); amending and renumbering subsection (4)(D); and deleting subsection (4)(C). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This amendment removes obsolete provisions, reduces the regulatory burden on facilities, improves consistency with the Kansas City rule 10 CSR 10-2.260 that regulates the same types of facilities, eliminates the permitting requirement for Stage I vapor recovery systems, and clarifies rule language on testing, reporting, and other items. This amendment also complies with Executive Order 17-03 criteria and removes any unnecessary restrictive words, adds back definitions specific to the rule, and adds incorporations by reference as applicable. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

*PURPOSE: This rule restricts volatile organic compound emissions from the handling of petroleum liquids in five specific areas: petroleum storage tanks with a capacity greater than forty thousand gallons, the loading of gasoline into delivery vessels, the transfer of gasoline from delivery vessels into storage containers, gasoline delivery vessels and the fueling of motor vehicles from storage containers. This rule is [required] **necessary** to achieve the federally mandated reduction of hydrocarbon emissions in the St. Louis metropolitan area that contribute to the formation of ozone.*

(1) Applicability.

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

(C) Exemptions to This Rule and/or Specific Areas of This Rule.

1. Petroleum storage tanks. Subsection (3)(A) of this rule *[shall]* **does** not apply to petroleum storage tanks that—

A. Store processed and/or treated petroleum or condensate at a drilling and production installation prior to custody transfer;

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

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

D. Store waxy, heavy pour crude oil.

2. Gasoline loading.

[A.] Subsection (3)(B) of this rule *[shall]* **does** not apply to a gasoline *[loading installation]* **distribution facility** whose average monthly throughput of gasoline is less than or equal to one hundred twenty thousand (120,000) gallons when averaged over the most recent calendar year, provided the gasoline *[loading installation]* **distribution facility** loads gasoline by submerged filling and—

*[(I)]***A. Upon request of the staff director,** *[O]***o**wners or operators of gasoline *[loading installation]* **distribution facilities** submit a report to the staff director on a form supplied by the department stating the gasoline throughput for each month of the previous calendar year*[. The report shall be submitted no later than February 1 of each year]*;

*[(II)]***B.** Delivery vessels purchased after December 31, 1995, are Stage I equipped;

*[(III)]***C.** Owners or operators of **a** gasoline *[loading installation]* **distribution facility** maintain records of gasoline throughput and gasoline delivery; and

*[(IV)]***D.** Delivery vessels operated by an exempt installation do not deliver to Stage I controlled tanks unless the delivery vessel is

equipped with and employs Stage I controls.

[B. A gasoline loading installation that fails to meet the requirements of the exemption in subparagraph (1)(C)2.A. of this rule for one (1) calendar year shall not qualify for the exemption again.]

3. This rule does not apply to stationary gasoline tanks with a capacity of less than or equal to five hundred (500) gallons.

4. Subsection (3)(E) of this rule does not apply to any gasoline dispensing facility (GDF) with one thousand (1,000) gallon or smaller tank(s) and monthly throughput of less than or equal to ten thousand (10,000) gallons of gasoline through the tanks.

5. Paragraph (3)(C)2. of this rule does not apply to gasoline transfers made to storage tanks equipped with floating roofs or their equivalent.

6. Subsection (3)(C) of this rule does not apply to any storage tank having a capacity less than or equal to two thousand (2,000) gallons used exclusively for the fueling of agricultural equipment.

7. Subsection (3)(E) of this rule does not apply to any stationary storage tank used primarily for the fueling of agricultural equipment.

8. Subsection (3)(F) does not apply to any gasoline storage tank having a capacity of less than or equal to one thousand (1,000 gallons).

(2) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(O) Petroleum liquid—Petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery with the exception of Numbers 2–6 fuel oils as specified in ASTM D 396-17a, as specified in 10 CSR 10-6.040(12), gas turbine fuel oils Number 2-GT–4-GT, as specified in ASTM D 2880-15, as specified in 10 CSR 10-6.040(20), and diesel fuel oils Number 2-D and 4-D, as specified in ASTM D 975-18, as specified in 10 CSR 10-6.040(14).

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

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

(R) Stage II vapor recovery system—A system used to capture the gasoline vapors that would otherwise be emitted when gasoline is dispensed from a storage tank to the fuel tank of a motor vehicle. Stage II vapor recovery includes both Stage I and Stage II Vapor Recovery equipment and requirements, unless otherwise stated.

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

(T) Submerged filling—The filling of a gasoline storage tank through a submerged fill pipe with a discharge no more than six inches (6") (no more than twelve inches (12") for submerged fill pipes installed on or before November 9, 2006) from the bottom of the tank. Bottom filling of gasoline storage tanks is included in this definition.

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

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

(W) Vapor recovery system modification—Any repair, replacement, alteration, or upgrading of Stage I or Stage II vapor recovery control equipment or gasoline dispensing equipment equipped with Stage II vapor recovery beyond normal maintenance of the system as permitted by the staff director.

(X) Vapor tight—When applied to a delivery vessel or vapor recovery system as one that sustains a pressure change of no more than seven hundred fifty (750) pascals (three inches (3") of water)

in five (5) minutes when pressurized to a gauge pressure of four thousand five hundred (4,500) pascals (eighteen inches (18") of water) or evacuated to a gauge pressure of one thousand five hundred (1,500) pascals (six inches (6") of water).

(Y) Waxy, heavy pour crude oil—A crude oil with a pour point of fifty degrees Fahrenheit (50 °F) or higher as determined by the ASTM D 97-17b, as specified in 10 CSR 10-6.040(10).

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

(3) General Provisions.

(A) Petroleum Storage Tanks.

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

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

(I) The storage tank must be fitted with—

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

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

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

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

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

(c) For vapor-mounted primary seals, the accumulated area of gaps exceeding 0.32 centimeters, one-eighth inch (1/8") width, between the secondary seal and the tank wall shall not exceed 21.2 cm^2 per meter of tank diameter (1.0 in^2 per foot of tank diameter);

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

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

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

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

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

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

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

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

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

3. Reporting and record keeping shall be per subsection (4)(A) of this rule.

(B) Gasoline Loading.

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

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

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

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

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

3. Reporting and record keeping shall be per subsection (4)(B) of this rule.

(C) Gasoline Transfer at GDFs.

1. No owner or operator of a gasoline storage tank or delivery vessel shall cause or permit the transfer of gasoline from a delivery vessel into a gasoline storage tank with a capacity greater than five hundred **fifty** *[(500)]* **(550)** gallons and less than or equal to one thousand (1,000) gallons unless—

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

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

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

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

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

(III) Equipped with a pressure/vacuum valve that is certified by the California Air Resources Board (CARB) *[at three inches water column pressure/eight inches water column vacuum (3"wcp/8"wcv) except when the owner or operator provides documentation that the vapor recovery system is CARB certified for a different valve and will not function properly with a 3"wcp/8"wcv valve]* **or equivalent as approved by the staff director. The pressure specifications for pressure/vacuum valves shall be a positive pressure setting of 2.5 to 6.0 inches of water and a negative pressure setting of 6.0 to 10.0 inches of water**.

2. No owner or operator of a gasoline storage tank or delivery vessel shall cause or permit the transfer of gasoline from a delivery vessel into a gasoline storage tank with a capacity greater than one thousand (1,000) and less than forty thousand (40,000) gallons

unless—

A. The gasoline storage tank is equipped with a Stage I vapor recovery system that is certified by a CARB Executive Order as having a collection efficiency of at least ninety-eight percent (98%);

B. The delivery vessel to these tanks is in compliance with subsection (3)(D) of this rule;

C. All vapor ports are poppeted fittings;

D. The delivery vessel is reloaded at installations complying with the provisions of subsection (3)(B) of this rule;

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

F. All vapor hoses are at least three inches (3") inside diameter; *[and]*

G. All product hoses are less than or equal to four inches (4") inside diameter*[.]***;**

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

I. A department approved pressure decay test is completed and passed every three (3) years. The department must be notified at least seven (7) days prior to the test date to allow an observer the opportunity to be present. The test results shall be provided to the department within fourteen (14) days of the test event; and

J. A department approved pressure/vacuum valve test is completed and passed every three (3) years. The department must be notified at least seven (7) days prior to the test date to allow an observer the opportunity to be present. The test results shall be provided to the department within fourteen (14) days of the test event.

3. The **staff** director may approve a vapor recovery system or component that deviates from the requirements of subparagraph (3)(C)2.A. of this rule when provided documentation that—

A. The system or component has a collection efficiency of at least ninety-eight percent (98%); *[and]* **or**

B. Compliance with the requirements of subparagraph (3)(C)2.A.of this rule would lead to noncompliance with other state or federal regulations or to improper functioning of the gasoline storage tank system.

4. Aboveground gasoline storage tanks at GDFs shall not have a capacity greater than one thousand (1,000) gallons.

5. This subsection does not prohibit safety valves or other devices required by government regulations.

(D) Gasoline Delivery Vessels.

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

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

B. The owner or operator obtains the completed test results signed by a representative of the testing installation upon successful completion of the leak test*[.]***;**

C. A copy of the vessel's current test results are kept with the delivery vessel at all times and made immediately available to the staff director upon request; and

D. The delivery vessel is repaired by the owner or operator and retested within fifteen (15) business days of testing if it does not meet the leak test criteria of subparagraph (3)(D)1.A. of this rule.

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

3. Reporting and record keeping shall be performed as specified in subsection (4)(C) of this rule.]

*[4.]***2.** This subsection does not prohibit safety valves or other devices required by government regulations.

(E) Fueling of Motor Vehicles at GDFs.

1. GDFs not equipped with a Stage II vapor recovery system. Owners or operators shall—

A. Employ vapor-tight tank gauging and sampling sites or ports, valves, breakaways, joints, and disconnects on the vapor recovery systems to prevent emissions of volatile organic compounds except during gauging or sampling; and

B. Ensure that motor vehicle refueling meets the requirements of 40 CFR 80.22(j) promulgated *[June 26, 1996]* **as of June 30, 2018**, and hereby incorporated by reference in this rule, as published by the Office of Federal Register*[, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408]*. **Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401.** This rule does not incorporate any subsequent amendments or additions.

[2. GDFs equipped with a Stage II vapor recovery system.

A. Owners or operators shall—

(I) Comply with the requirements of subparagraphs (3)(E)1.A.–B. of this rule.

(II) Maintain the Stage II vapor recovery system in good working order in accordance with the manufacturer's specifications and with no indication of visible liquid leaks. Vapor recovery system components may only be replaced with components that have equivalent performance;

(III) Post operation instructions conspicuously in the gasoline dispensing area for the vapor recovery system in use at each GDF. The instructions shall clearly describe how to fuel vehicles correctly with vapor recovery nozzles utilized at that GDF. The instructions shall also include a warning that repeated attempts to continue dispensing gasoline after the system has indicated that the vehicle fuel tank is full may result in spillage of gasoline;

(IV) Decommission the Stage II vapor recovery system no later than December 31, 2015. The decommissioning must be performed in accordance with the department's Stage II Decommissioning Checklist.

B. The staff director shall identify and list specific defects that substantially impair the effectiveness of components or systems used for the control of gasoline vapors resulting from motor vehicle fueling operations. This ongoing list shall be used by the staff director as a basis for marking the components or systems out-of-order and shall be made available to any GDF with a Stage II vapor recovery system in place.

C. Upon the staff director's identification of substantial defects in equipment or installation of a Stage II vapor recovery system, the system or components shall be marked "out-of-order" and no person shall use or permit the use of that system or component until those defects and all other defects have been repaired, replaced, or adjusted to establish compliance. The components or system may be released into operation when the staff director has reinspected the installation; found the system and components to be in good working order; and removed the "out-of-order" notice. The staff director shall reinspect the previously marked "out-of-order" system or component and other noted defects as expeditiously as possible after notification from the operator that the repairs have been completed. In no case shall the reinspection be more than four (4) business days from the operator's notification that the repairs have been completed. In those cases in which the reinspection cannot be scheduled within the

required time, the owner or operator may remove the "out-of-order" notice with permission of the staff director. If reinspection reveals that compliance has not been established, the system or components shall remain tagged "out-of-order." The staff director shall conduct a second reinspection within seven (7) business days from the operator's notification that repairs have been completed.

*[3.]***2.** After *[the effective date of this rule,]* **December 31, 2015,** no owner or operator of a GDF may install *[a new]* **or operate a** Stage II vapor recovery system.

[(F) Permits Required.

1. No owner or operator of a GDF subject to subsections (3)(C) or (3)(E) of this rule may construct or modify a Stage I or Stage II vapor recovery system without obtaining a construction permit according to subsection (3)(G) of this rule; and

2. No owner or operator of a GDF subject to subsections (3)(C) or (3)(E) of this rule shall operate without an operating permit obtained according to subsection (3)(H) of this rule.

(G) Construction Permits for Vapor Recovery Systems for New GDFs, Vapor Recovery System Modification for Existing GDFs, and Stage I experimental technology.

1. Construction of a new GDF that requires a Stage I vapor recovery system, decommission of an existing Stage II vapor recovery system, or major modification to an existing GDF. An owner or operator constructing a new GDF that requires a Stage I vapor recovery system, decommissioning an existing Stage II vapor recovery system, or modifying an existing vapor recovery system such that the fixed capital costs of the new components will exceed fifty percent (50%) of the fixed capital cost of a new gasoline dispensing system (including only those components directly related to gasoline dispensing and storage) shall—

A. Submit an application on a form supplied by the department for a permit to construct at least thirty (30) days prior to beginning construction. The application shall include:

(I) Complete diagrams and a thorough description of the planned installation;

(II) Plumbing diagrams including vent lines and material of all underground and aboveground plumbing;

(III) For gasoline storage tanks subject to paragraph (3)(C)2. of this rule, current CARB Executive Orders for the proposed Stage I vapor recovery system;

(IV) Detailed description of the storage tank(s); and

(V) Schedule of construction;

B. Obtain a construction permit prior to beginning construction;

C. Display the construction permit in a prominent location during construction;

D. Establish compliance with all rules and requirements of Division 10 of Title 10 of the Code of State Regulations;

E. Obtain staff director approval of final test methods and procedures that will be used to demonstrate compliance;

F. Meet the testing requirements in subparagraph (3)(H)1.B. of this rule; and

G. Obtain and maintain on-site, in a prominent location, the current operating permit from the director for the site and the specific vapor recovery system that was installed. The operating permit shall be maintained according to subsection (3)(H) of this rule.

2. Minor modification to existing GDF. An owner or operator of an existing GDF modifying an existing vapor recovery system such that the fixed capital costs of the new components will not exceed fifty percent (50%) of the fixed capital cost of a new gasoline dispensing system (including only those components directly related to gasoline dispensing and storage) shall—

A. Submit a construction permit notification prior to construction for projects that include, but are not limited to, any modification that—

(I) Requires breaking concrete in an area within fifteen (15) feet of the vapor lines or vent lines;

(II) Modifies vapor lines or vent lines themselves;

(III) Affects the operation of the vapor recovery system; or

(IV) Could result in improper functioning of the vapor recovery system;

B. Supply any information requested by the staff director for the specific installation. Such information may include, but is not limited to, plumbing diagrams, including vapor or vent lines; material of all underground and aboveground plumbing; current CARB executive orders for the proposed vapor recovery system and equipment; and proof of compliance with all rules and requirements of Division 10 of Title 10 of the Code of State Regulations;

C. Modify the vapor recovery system in accordance with the rules and requirements of Division 10 of Title 10 of the Code of State Regulations. If, after review of the application, or inspection of the modification to the vapor recovery system, it is discovered that the modification is not in compliance with the rules and requirements of Division 10 of Title 10 of the Code of State Regulations, the owner or operator will be subject to enforcement action, and must bring the facility back into compliance with the rules and requirements of Division 10 of Title 10 of the Code of State Regulations;

D. Meet the testing requirements in paragraph (3)(H)1. of this rule; and

E. Upon completion of testing, obtain and display, in a prominent location, on-site the current operating permit from the director for the specific site and the specific vapor recovery system that was installed. The operating permit shall be maintained according to subsection (3)(H) of this rule.]

(F) Requirements for vapor recovery systems associated with new GDF installations, complete vapor recovery system replacements associated with existing GDFs, partial vapor recovery system modifications associated with existing GDFs, and installation of GDFs with Stage I experimental technology.

1. Any owner or operator subject to paragraph (3)(C)2. installing a new GDF or modifying an existing GDF that requires a complete replacement of the Stage I vapor recovery system of one (1) or more underground storage tank shall—

A. Notify the department using an approved form at least fourteen (14) days before installation. The notification shall include complete diagrams, a thorough description of the planned installation, a detailed description of the storage tank(s), plumbing diagrams including vent lines, and a schedule of construction. The notification shall also include a list of CARB approved ninety-eight percent (98%) efficient equipment and/or reference department approval for the proposed Stage I vapor recovery system. The notice is valid for one hundred eighty (180) days from receipt by the department; and

B. Conduct and pass a department approved pressure decay test and a department approved pressure/vacuum valve test within thirty (30) days of construction completion. The department must be notified at least seven (7) days prior to the test date to allow an observer the opportunity to be present. The test results have to be provided to the department within fourteen (14) days of the test event.

2. Any owner or operator of an existing GDF that requires a partial modification to a Stage I vapor recovery system subject

to paragraph (3)(C)2. shall notify the department using an approved form before installation. The notification has to include a description of the planned installation. The notification has to also include a list of CARB approved ninety-eight percent (98%) efficient equipment and/or reference department approval for the proposed Stage I vapor recovery system. The notice is valid for one hundred eighty (180) days from receipt by the department.

3. Experimental Stage I technology. The **staff** director may approve Stage I experimental technology for a specific GDF. Experimental technology may be approved for up to three (3) years for a limited number of GDFs under specific conditions determined by the staff director. GDFs applying for approval of experimental technology shall—

A. Submit an application for **staff** director approval at least ninety (90) days prior to beginning construction. The application shall include, but not be limited to:

(I) Complete diagrams and a thorough description of the planned installation;

(II) Plumbing diagrams including vent lines and material of all underground and aboveground plumbing; and

(III) Standards, test data, history, and related information for the proposed system;

B. Submit to the staff director a detailed plan for the construction and operation of the system. The plan shall include a description of the planned testing and record keeping for the GDF. The **staff** director may issue the construction permit when all conditions of the testing GDF are deemed satisfactory;

C. Display the construction permit in a prominent location during construction;

D. Install monitoring equipment to prove that the vapor recovery system is leaktight if requested by the staff director; and

E. Upon completion of testing, obtain and maintain on-site, in a prominent location, a current operating permit from the **staff** director for the specific innovative technology that is in operation. The permit shall specify the technology, the location, and the time period the technology will be tested.

4. Emergency Repairs.

A. Owners or operators of GDFs requiring emergency repair or replacement of Stage I vapor recovery system components subject to subsection (3)(C)2. may immediately begin corrective construction if the construction is in response to an accident or event that—

(I) Creates an abnormally high threat of fire;

(II) Poses an environmental hazard by allowing release of liquid product onto the ground or abnormal release of vapor into the air; and/or

(III) Threatens public safety; and

B. Owners or operators of GDFs electing to make emergency repair or replacement per subparagraph *[(3)(G)4.A.]* **(3)(F)4.A.** of this rule *[shall]* **have to** contact the department within forty-eight (48) hours of the commencement of the repair or replacement to determine what future action is required for compliance with this rule.

5. *[Owners or operators of GDFs making modifications to the Stage I vapor recovery system per paragraph (3)(F)2. of this rule may begin modification upon submittal of the construction permit notification.]* **Upon the department's discovery of an installation that is not in compliance with the requirements of subsection (3)(F) of this rule, the department's authorized representative may restrict the owner and operator from completing the vapor recovery system installation until the department approves the installation.**

[6. The director shall issue a construction permit or a permit rejection within thirty (30) days of receipt of all construction permit applications submitted per paragraph (3)(G)1. of this rule.

7. Owners or operators of GDFs shall pay the department a fee of one hundred dollars ($100) for each construction permit application submitted in accordance with subsection (3)(G) of this rule.

(H) Operating Permits. All owners or operators of installations subject to subsection (3)(C) or (3)(E) of this rule shall apply to the director for an operating permit.

1. Completion of construction. To obtain an operating permit after the completion of construction, the owner or operator of a GDF shall—

A. Apply to the director for an operating permit within thirty (30) days of construction completion;

B. Conduct and pass a department approved pressure decay test, pressure/vacuum valve test, and, where a Stage II vapor recovery system is in place, a dynamic back pressure/liquid blockage test;

C. Schedule the test and notify the staff director at least seven (7) days prior to the test date. The staff director may observe the test, but it is not required that the staff director be present and observe the test;

D. Provide the test results to the staff director;

E. Demonstrate that the installation maintains a system of record keeping that meets the requirements of subsection (4)(D) of this rule; and

F. Establish compliance with all rules and requirements of Division 10 of Title 10 of the Code of State Regulations.

2. Renewal of operating permits. The operating permit is renewable on the date specified in the initial operating permit and for periods of three (3) years after the initial permit term expires. In order to renew the operating permit the owner or operator of a GDF shall—

A. Apply to the director for renewal of the operating permit and test within ninety (90) days prior to the renewal date;

B. Demonstrate that the GDF maintained all vapor recovery system components in good operating order during the preceding operating permit term including prompt efforts to establish compliance following "out-of-order" notices;

C. Conduct and pass a department approved pressure decay test, pressure/vacuum valve test, and, where a Stage II vapor recovery system is in place, a dynamic back pressure/liquid blockage test, prior to the expiration date of the permit;

D. Schedule the test and notify the staff director at least seven (7) days prior to the test date. The staff director may observe the test, but it is not required that the staff director be present and observe the test;

E. Provide the test results to the staff director; and

F. Maintain records according to subsection (4)(D) of this rule.

3. Owners or operators of an installation using a vapor recovery system that is decertified by CARB shall establish compliance with this rule within one (1) year or by the next renewal date of the operating permit whichever is longer. Failure to establish compliance will result in nonrenewal of the operating permit.

4. Owners or operators of GDFs shall pay the department a fee of one hundred dollars ($100) for each operating permit.]

*[(I)]***(G)** Owner/Operator Compliance. The owner or operator of a vapor recovery system subject to this rule shall—

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

A. Gauge pressure from exceeding four thousand five hundred (4,500) pascals (eighteen inches (18") of *[H_2O]* **water**) in the delivery vessel;

B. A reading equal to or greater than one hundred percent (100%) of the lower explosive limit (LEL), measured as propane at two point five (2.5) centimeters from all points on the perimeter of

a potential leak source when measured by *[the method referenced in]* **Method 21—Determination of Volatile Organic Compound Leaks as specified in** 10 CSR 10-6.030*[(14)(E)]***(22)** during loading or transfer operations; and

C. Visible liquid leaks during loading or transfer operations; and

2. Repair and retest within fifteen (15) days, a vapor recovery system that exceeds the limits in paragraph *[(3)(I)1.]* **(3)(G)1.** of this rule*[; and]***.**

[3. Reporting and record keeping shall be per subsection (4)(D) of this rule.]

(4) Reporting and Record Keeping.

(B) Owners or operators of gasoline *[loading installations]* **distribution facilities** subject to subsection (3)(B) of this rule shall keep complete records documenting the number of delivery vessels loaded and their owners. Records *[shall]* **have to** be kept for two (2) years and made available to the staff director within five (5) business days of a request.

[(C) Owners or operators of gasoline delivery vessels subject to subsection (3)(D) of this rule shall keep records of all tests and maintenance performed on the vessels. Records shall be kept for two (2) years and made available to the staff director within five (5) business days of a request. Also a copy of the vessel's current Tank Truck Tightness Test results shall be kept with the delivery vessel at all times and made immediately available to the staff director upon request.]

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

(5) Test Methods.

(A) Gasoline Loading. Gasoline loading testing procedures to determine compliance with subparagraph (3)(B)2.A. of this rule shall be according to **Method 25—Determination of Total Gaseous Nonmethane Organic Emissions as Carbon as specified in** 10 CSR 10-6.030**(22)** *[subsection (14)(A)]* or by any method determined by the staff director. The staff director, at any time, may monitor an installation subject to subsection (3)(B) of this rule to confirm compliance with this rule.

(B) *[Gasoline Delivery Vessels. Testing procedures for gasoline delivery vessels to determine compliance with subsection (3)(D) of this rule shall be according to 10 CSR 10-6.030 subsection (14)(B) or by any method determined by the staff director.]* **Testing procedures to determine compliance with subparagraph (3)(D)1.A. shall be performed according to 40 CFR 63.425(e), Subpart R. 40 CFR 63 promulgated as of June 30, 2018 is hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington DC 20401. This rule does not incorporate any subsequent amendments or additions.** The staff director, at any time, may monitor a gasoline delivery vessel subject to subsection (3)(D) of this rule to confirm compliance with this rule.

(C) Fueling of Motor Vehicles and Gasoline Transfer at GDFs. The staff director, at any time, may monitor a GDF subject to subsection (3)(C) or (3)(E) of this rule to confirm compliance with this rule. *[The staff director may require a leak test, a back pressure blockage test, a pressure/vacuum valve test, or may require any test or monitoring procedure in order to determine compliance with this rule.]*

(D) All emission controls that are approved by the **staff** director will not be considered federally enforceable and will not shield a source from the obligation to comply with the underlying federal emission controls until submitted to EPA and approved by EPA in the state implementation plan.

*AUTHORITY: section 643.050, RSMo [Supp. 2013] **2016**. Original rule filed March 14, 1967, effective March 24, 1967. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., September 27, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., October 4, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED AMENDMENT

10 CSR 10-5.295 Control of Emissions From Aerospace Manufacture and Rework Facilities. The commission proposes to amend the rule purpose; sections (1) and (5); and subsections (2)(A), (2)(C), (2)(E)–(2)(H), (2)(K), (2)(M), (2)(N), (2)(R), (3)(E)–(3)(H), and (3)(L); renumber (4)(C) to (4)(B)3.; and add new subsection (2)(U). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: The purpose of this amendment is to eliminate redundant requirements by exempting source operations regulated under the state's hazardous waste rules from certain solvent handling provisions of this rule. At the same time, this amendment will remove unnecessary use of restrictive words, update definitions specific to this rule, update/add incorporations by reference as applicable, make minor numbering corrections, and make other minor changes. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is a comment dated October 8, 2013 from an industry representative in the Air Program Advisory Forum's Rule Review Workgroup and Executive Order 17-03 Red Tape Reduction Review and related comments.

PURPOSE: This rule[making] will reduce volatile organic compound emissions from aerospace manufacture and/or rework facilities located in the St. Louis nonattainment area. This rule[making] is required to comply with the Clean Air Act Amendments of 1990.

(1) Applicability.

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

(B) The requirements of this rule*[making shall]* apply to all aerospace manufacture and/or rework facilities with potential emissions of volatile organic compounds exceeding twenty-five (25) tons per year.

(2) Definitions.

(A) *[Definitions of individual specialty coatings specified in this rule are incorporated by reference from]* **Specialty coating definitions in** 40 CFR 63 Subpart GG, Appendix A, *[with the following modifications:]* **promulgated as of July 1, 2018, with the exception of "mold release" and "caulking and smoothing compound," apply and are hereby incorporated by reference in this rule, as published by the Office of Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions. The following two (2) definitions, as defined below, shall be used for this rule:**

1. Mold release—A coating applied to a mold surface to prevent the mold piece from sticking to the mold as it is removed, or to an aerospace component for purposes of creating a form-in-place seal*[.]***; and**

2. Caulking and smoothing compound—A semi-solid material that is used to aerodynamically smooth exterior vehicle surfaces or fill cavities such as bolt hole accesses*[. A material shall not be classified as a caulking and smoothing compound if it]***, excluding materials that** can be classified as a sealant.

(C) Aerospace vehicle or component—Any fabricated part, processed part, assembly of parts, or completed unit, with the exception of electronic components, of any aircraft **including, but not limited to, airplanes, helicopters, missiles, rockets, and space vehicles**.

(E) Aqueous *[cleaning]* solvent—A cleaning solution in which water is the primary ingredient (greater than eighty percent (80%) by weight of cleaning solvent solution as applied must be water). Detergents, surfactants, and bioenzyme mixtures and nutrients may be combined with the water along with a variety of additives such as organic solvents (e.g. high boiling point alcohols), builders, saponifiers, inhibitors, emulsifiers, pH buffers, and antifoaming agents. Aqueous solutions must have a flash point greater than ninety-three degrees Celsius (93 °C) (two hundred degrees Fahrenheit (200 °F)) (as reported by the manufacturer) and the solution must be miscible with water.

(F) Chemical milling maskants—A coating that is applied directly to aluminum components to protect surface areas when chemical milling the component with a Type I or Type II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant. This definition does not include bonding maskants, critical use and line sealer maskants, and seal coat maskants. Maskants that must be used with a combination of Type I or Type II etchants and any of the above types of maskants **(i.e., bonding, critical use and line sealer, and seal coat)** are also not included in this definition.

(G) Energized electrical systems—Any **alternating current (**AC**)** or **direct current (**DC**)** electrical circuit on an assembled aircraft once electrical power is connected, including interior passenger and cargo areas, wheel wells, and tail sections.

(H) Flush cleaning—The removal of contaminants such as dirt, grease, and coatings from an aerospace vehicle or component or coating equipment by passing solvent over, into, or through the item being cleaned. The solvent may simply be poured into the item cleaned and then drained, or be assisted by air *[or]***, compressed gas,** hydraulic pressure, or by pumping. **Spray gun cleaning or** *[H]***h**and-wipe cleaning operations where wiping, scrubbing, mopping, or other hand actions are used are not included in this definition.

(K) High volume low pressure (HVLP) spray equipment—Spray equipment *[that is]* used to apply coating by means of spray gun that operates at ten pounds per square inch gauge (10 psig) of atomizing air pressure or less at the air cap.

(M) Primer—The first layer and any subsequent layers of identically formulated coating applied to the *[surface of an aerospace vehicle or component. Primers are typically used for corrosion prevention, protection from the environment, functional fluid resistance, and adhesion of subsequent coatings]* **article to provide corrosion resistance, surface etching, surface leveling, adhesion promotion, or other property depending on the end use or exposure of the final product**. Primers that are defined as specialty coatings are not included under this definition.

(N) Self-priming topcoat—A topcoat that is applied directly to *[an uncoated aerospace]* **a** vehicle or component for purposes of corrosion prevention, environmental protection, and function fluid resistance. More than one (1) layer of identical coating formulation may be applied to the vehicle or component.

(R) Touch-up and repair operation—That portion of the coating operation that is the incidental application of *[coating]* **finishing materials** used to cover minor imperfections in the coating finish or to achieve complete coverage. This definition includes out-of-sequence or out-of-cycle coating.

(U) Waterborne (water-reducible) coating—Any coating that contains more than five percent (5%) water by weight as applied in its volatile fraction.

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

(3) General Provisions.

(E) Each owner or operator of an aerospace manufacturing and/or rework operation shall comply with the following housekeeping requirements for any affected cleaning operation, unless the cleaning solvent used is an aqueous *[cleaning]* solvent, low vapor pressure hydrocarbon-based cleaning solvent, or contains less than one percent (1%) VOC by weight*[:]***. Hazardous waste under regulation 10 CSR 25-4.261 that is subject to the hazardous waste generators standards of 10 CSR 25-5.262 or the solvent wipe conditional exclusion requirements of 40 CFR 261.4(a)(26) or (b)(18), as incorporated in 10 CSR 25-4.261, is exempt from the requirements of paragraphs (3)(E)1. through (3)(E)3. below:**

1. Solvent-laden cloth, paper, or any other absorbent applicators used for cleaning shall be placed in bags or other closed containers upon completing their use. These bags and containers must be kept closed at all times except when depositing or removing these materials from the container. The bags and containers used must be of such a design so as to contain the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning operations are exempt from this requirement;

2. All fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations shall be stored in closed containers; and

3. The handling and transfer of cleaning solvent to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh **or** spent cleaning solvents shall be conducted in such a manner that spills are minimized.

(F) Each owner or operator of an aerospace manufacturing and/or rework operation utilizing hand-wipe cleaning operations excluding the cleaning of spray gun equipment performed in accordance with subsection (3)(G) shall comply with one (1) of the following:

1. Utilize cleaning solvent solutions that are classified as an aqueous *[cleaning]* solvent and/or a low vapor pressure hydrocarbon-based

cleaning solvent; or

2. Utilize cleaning solvent solutions that have a composite vapor pressure of forty-five (45) mmHg or less at twenty degrees Celsius (20°C).

(G) Each owner or operator of an aerospace manufacturing and/or rework operation shall clean all spray guns used in the application of primers, topcoats (including self-priming topcoats), and specialty coatings utilizing one **(1)** or more of the following techniques:

1. Enclosed system. **Clean** *[S]***s**pray guns *[shall be cleaned in]* **within** an enclosed system that is closed at all times except when inserting or removing the spray gun. *[Cleaning shall consist of forcing cleaning solvent through the gun.]* If leaks in the system are found, repairs shall be made as soon as practicable, but no later than fifteen (15) days after the leak was found. If the leak is not repaired by the fifteenth day after detection, the cleaning solvent shall be removed and the enclosed cleaner shall be shut down until the leak is repaired or its use is permanently discontinued;

2. Nonatomized cleaning. **Clean** *[S]***s**pray guns *[shall be cleaned]* by placing cleaning solvent in the pressure pot and forcing it through the gun with the atomizing cap in place. No atomizing air is to be used. The cleaning solvent from the spray gun shall be directed into a vat, drum, or other waste container that is closed when not in use;

3. Disassembled spray gun cleaning. **Clean** *[S]***s**pray guns *[shall be cleaned]* by disassembling and cleaning the components by hand in a vat, which shall remain closed at all times except when in use. Alternatively, the components *[shall]* **may** be soaked in a vat, which shall remain closed during the soaking period and when not inserting or removing components; and

4. Atomizing cleaning. **Clean** *[S]***s**pray guns *[shall be cleaned]* by forcing the cleaning solvent through the gun and directing the resulting atomized spray into a waste container that is fitted with a device designed to capture the atomized cleaning solvent emissions.

(H) Each owner or operator of an aerospace manufacturing and/or rework operation that includes a flush cleaning operation shall empty the used cleaning solvents each time aerospace parts or assemblies, or components of a coating unit with the exception of spray guns are flush-cleaned into an enclosed container or collection system that is kept closed when not in use or into a system with equivalent emission control approved by the director. Aqueous, semi-aqueous, *[and]* low vapor pressure hydrocarbon based solvent materials**, and all wastes that are determined to be hazardous waste under regulation 10 CSR 25-4.261 and that are subject to the hazardous waste generators standards of 10 CSR 25-5.262** are exempt from the requirements of this subsection.

(L) The following cleaning operations are exempt from the requirements of subsection (3)(F) of this rule:

1. Cleaning during the manufacture, assembly, installation, maintenance, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen;

2. Cleaning during the manufacture, assembly, installation, maintenance, or testing of parts, subassemblies, or assemblies that are exposed to strong oxidizers or reducers (e.g., nitrogen tetroxide, liquid oxygen, or hydrazine);

3. Cleaning and surface activation prior to adhesive bonding;

4. Cleaning of electronic parts and assemblies containing electronic parts;

5. Cleaning of aircraft and ground support equipment fluid systems that are exposed to the fluid including air-to-air heat exchangers and hydraulic fluid systems;

6. Cleaning of fuel cells, fuel tanks, and confined spaces;

7. Surface cleaning of solar cells, coating optics, and thermal control surfaces;

8. Cleaning during fabrication, assembly, installation, and maintenance of upholstery, curtains, carpet, and other textile materials used in the interior of the aircraft;

9. Cleaning of metallic and non-metallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and cleaning of the completed cores used in the manufacture or maintenance of aerospace vehicles or components;

10. Cleaning of aircraft transparencies, polycarbonate, or glass substrates;

11. Cleaning and solvent usage associated with research and development, quality control, and laboratory testing;

12. Cleaning operations, using nonflammable liquids, conducted within five feet (5') of energized electrical systems; and

13. Cleaning operations identified as essential uses *[under the Montreal Protocol]* **in 40 CFR 82.4** for which the U.S. Environmental Protection Agency has allocated essential use allowances or exemptions.

(4) Reporting and Record Keeping.

(B) Record Keeping Requirements.

1. Each owner or operator of an aerospace manufacture and/or rework operation that applies coatings listed in subsection (3)(A) of this rule shall—

A. Maintain a current list of coatings in use with category and VOC content as applied;

B. Record each coating volume usage on a monthly basis; and

C. Maintain records of monthly volume-weighted average VOC content for each coating type included in averaging for coating operations that achieve compliance through coating averaging under paragraph (3)(B)2. of this rule.

2. Each owner or operator of an aerospace manufacture and/or rework operation that uses cleaning solvents subject to this rule shall—

A. Maintain a list of materials with corresponding water contents for aqueous and semi-aqueous hand-wipe cleaning solvents;

B. Maintain a current list of cleaning solvents in use with their respective vapor pressure or, for blended solvents, VOC composite vapor pressure for all vapor pressure compliant hand-wipe cleaning solvents. This list shall include the monthly amount of each applicable solvent used; and

C. Maintain a current list of exempt hand-wipe cleaning processes for all cleaning solvents with a vapor pressure greater than forty-five (45) mmHg used in exempt hand-wipe cleaning operations. This list shall include the monthly amount of each applicable solvent used.

*[(C)]***3.** All records must be kept on-site for a period of five (5) years and made available to the department upon request.

(5) Test Methods.

(A) An owner or operator of an aerospace manufacture and/or rework operation shall determine compliance for coatings which are not waterborne (water-reducible)*[,]* **and** determine the VOC content of each formulation less water and less exempt solvents as applied using manufacturer's supplied data or Method 24 of 40 CFR *[part]* 60, Appendix A**, as specified in 10 CSR 10-6.030(22)**. If there is a discrepancy between the manufacturer's formulation data and the results of the Method 24 analysis, compliance *[shall be based on]* **is determined by** the results from the Method 24 analysis. For waterborne (water-reducible) coatings, manufacturer's supplied data alone can be used to determine the VOC content of each formulation.

(B) An owner or operator of an aerospace manufacture and/or rework operation shall determine compliance for cleaning solvents using the following:

1. For aqueous and semi-aqueous *[cleaning]* solvents manufacturers' supplied data shall be used to determine the water content; or

2. For hand-wipe cleaning solvents required in subsection (3)(F) of this rule, manufacturers' supplied data or standard engineering reference texts or other equivalent methods shall be used to determine the vapor pressure or VOC composite vapor pressure for blended cleaning solvents.

(C) An owner or operator of an aerospace manufacture and/or rework operation electing to demonstrate compliance with this rule

by use of control equipment meeting the requirements of paragraph (3)(B)3., shall demonstrate the required capture efficiency in accordance with EPA Methods 18, 25, and/or 25A in 40 CFR 60, Appendix A**, as specified in 10 CSR 10-6.030(22)**.

*AUTHORITY: section 643.050, RSMo [Supp. 1998] **2016**. Original rule filed July 15, 1999, effective Feb. 29, 2000. Amended: Filed June 21, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., September 27, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., October 4, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED AMENDMENT

10 CSR 10-5.330 Control of Emissions From Industrial Surface Coating Operations. The commission proposes to amend sections (1), (2), and (5); and amend subsections (3)(A) through (3)(E), (3)(G) through (3)(K), (4)(A), and (4)(D). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule restricts the emissions of volatile organic compounds from industrial surface coating operations. This amendment creates a new surface coating category for the decorative coating of foam products and establishes an appropriate RACT-level emission limit for this type of surface coating operation. This amendment also removes obsolete provisions that were applicable prior to March 1, 2012, removes a reference to a rule that is being rescinded since it is duplicative of a federal rule, removes unnecessary language and use of restrictive words, adds definitions specific to this rule, changes rule language to be consistent with defined terms, and updates incorporations by reference. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is a rule comment form dated March 26, 2014, describing how the surface coating of foam products has been miscategorized under the surface coating of rubber products, and requesting changes to certain terms for consistency, and Executive Order 17-03 Red Tape Reduction Review and related comments.

(1) Applicability.

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

(B) This rule *[shall apply]* **applies** to any *[installation]* **facility** with actual emissions of volatile organic compounds (VOCs) from **industrial** surface coating operations, including related cleaning activities, of at least three (3) tons per twelve (12)-month rolling period, before consideration of controls.

[(C) This rule is only applicable to the surface coating of manufactured items intended for distribution in commerce to persons other than the person or legal entity performing the surface coating.]

*[(D)]***(C)** Exemptions. This rule is not applicable to the following:

1. Motor vehicle refinishing;

2. Customizing top coating of motor vehicles, if production is less than thirty-five (35) vehicles per day;

3. Surface coating that is part of janitorial, building, and *[installation]* **facility** maintenance operations;

4. Research and development, performance testing, and quality control of coatings and surface coated products;

5. Aerosol coating*[s]* **products subject to 40 CFR 59 Subpart C or E**;

6. Field application of architectural coatings to buildings, building components, and stationary structures;

7. Powder coatings;

8. Surface coating and cleaning of aerospace vehicles or components at an aerospace manufacture or rework *[installation]* **facility** that—

A. Is subject to the requirements and/or aerospace-specific exemptions of 10 CSR 10-5.295; or

B. Is not subject to 10 CSR 10-5.295 because the *[installation's]* **facility's** potential to emit *[volatile organic compounds]* **VOCs** from aerospace surface coating and cleaning is twenty-five (25) tons per year or less;

9. Surface coating and cleaning of wood furniture or wood furniture components at a wood furniture manufacturing *[installation]* **facility** that—

A. Is subject to the requirements and/or wood furniture-specific exemptions of 10 CSR 10-5.530; or

B. Is not subject to 10 CSR 10-5.530 because the *[installation's]* **facility's** potential to emit *[volatile organic compounds]* **VOCs** from wood furniture coating and cleaning is less than twenty-five (25) tons per year;

[10. Surface coating and cleaning operations that are subject to a Reasonably Available Control Technology determination under 10 CSR 10-5.520;]

*[11.]***10.** Application and storage of *[traffic]* coatings that are subject to the requirements of *[10 CSR 10-5.450]* **40 CFR 59, Subpart D**;

*[12.]***11.** Printing operations that are subject to the requirements of 10 CSR 10-5.340 or 10 CSR 10-5.442;

*[13.]***12.** Surface coating and cleaning of articles used for internal company operations, including, but not limited to, work stands; scaffolding; jigs; tooling; dollies; tow bars; aircraft ground support equipment; portable equipment used for maintenance, testing, fabrication, or repair; toolboxes; storage bins; shelving; and other manufacturing or warehouse support items;

*[14.]***13.** Surface coating operations which do not have a VOC limit in section (3) of this rule;

*[15.]***14.** Adhesives and sealants that contain less than 0.17 pounds of VOC per gallon of coating (less water and exempt compounds) as-applied;

*[16.]***15.** Cyanoacrylate adhesives;

*[17.]***16.** Adhesives, sealants, adhesive primers, and sealant

primers that are supplied by the manufacturer or supplier in containers with a net volume of sixteen (16) fluid ounces or less, or a net weight of one (1) pound or less, except plastic cement welding adhesives and contact adhesives;

*[18.]***17.** Contact adhesives that are supplied by the manufacturer or supplier in containers with a net volume of one (1) gallon or less; and

*[19.]***18.** Adhesives, sealants, adhesive primers, sealant primers, surface preparation, and cleanup solvents that are used in the following operations:

A. Tire repair operations, provided the adhesive is labeled for tire repair only;

B. Assembly, repair, and manufacture of aerospace **components** or undersea-based weapons systems **components**;

C. **Plastic** *[S]*solvent welding operations used in the manufacture of medical devices or in the manufacture of medical equipment; and

D. Plaque laminating operations in which adhesives are used to bond clear, polyester acetate laminate to wood with lamination equipment installed prior to July 1, 1992.

*[(E)]***(D)** Once *[an installation]* **a facility** exceeds the applicability level of this rule, it shall remain subject to this rule until it can demonstrate, to the satisfaction of the director, that the actual total VOC emissions from surface coating operations, including related cleaning activities and before consideration of controls, is below three (3) tons per twelve (12)-month rolling period for sixty (60) consecutive months.

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

(A) All terms beginning with A.

1. ABS plastic solvent welding—A process to weld acrylonitrile-butadiene-styrene pipe.

2. Actual emissions—The actual rate of emissions of a pollutant from a source operation is determined as follows:

A. Actual emissions as of a particular date shall equal the average rate, in tons per twelve (12)-month rolling period, at which the source operation or facility actually emitted the pollutant during the previous two (2)-year period and which represents normal operation. A different time period for averaging may be used if the director determines it to be more representative. Actual emissions shall be calculated using actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period;

B. The director may presume that source-specific allowable emissions for a source operation or facility are equivalent to the actual emissions of the source operation or facility; and

C. For source operations or facilities, which have not begun normal operations on the particular date, actual emissions shall equal the potential emissions of the source operation or facility on that date.

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

4. Adhesion primer—A coating that is applied to a polyolefin part to promote the adhesion of a subsequent coating. An adhesion primer is clearly identified as an adhesion primer or adhesion promoter on its material safety data sheet.

5. Adhesive—Any chemical substance that is applied for the purpose of bonding two (2) surfaces together other that by mechanical means. For the purposes of this rule, an adhesive is considered a surface coating.

6. Adhesive application process—A series of one (1) or more adhesive applicators and any associated drying area and/or oven wherein an adhesive is applied, dried, and/or cured. An application process ends at the point where the adhesive is dried or cured, or prior to any subsequent application of a different adhesive. It is not necessary for an application process to have an oven or flash-off area.

7. Adhesive primer—A product intended by the manufacturer for application to a substrate, prior to the application of an adhesive, to provide a bonding surface.

8. Aerospace vehicle or component—Any fabricated part, processed part, assembly of parts, or completed unit, with the exception of electronic components, of any aircraft including, but not limited to, airplanes, helicopters, missiles, rockets, and space vehicles.

9. Air-dried coating—The coatings which are dried by the use of air or forced warm air at temperatures up to ninety degrees Celsius (90°C) (one hundred ninety-four degrees Fahrenheit (194°F)).

10. Airless spray and air-assisted airless spray—Any paint spray technology that relies solely on the fluid pressure of the paint to create an atomized paint spray pattern and does not apply any atomizing compressed air to the paint before it leaves the paint nozzle. Air-assisted airless spray uses compressed air to shape and distribute the fan of atomized paint, but still uses fluid pressure to create the atomized paint.

11. Antifoulant coating—A coating applied to the underwater portion of a pleasure craft to prevent or reduce the attachment of biological organisms, and registered with the U.S. Environmental Protection Agency as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) promulgated as of September 28, 2012, and hereby incorporated by reference in this rule, as published by the Office of the Law Revision Counsel of the House of Representatives. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington DC 20401. This rule does not incorporate any subsequent amendments or additions.

12. Antifoulant sealer/tie coating—A coating applied over biocidal antifoulant coating for the purpose of preventing release of biocides into the environment and/or to promote adhesion between an antifoulant and a primer or other antifoulant.

13. As-applied—The volatile organic compound and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

14. As-received—The condition of a coating as delivered to the user.

15. Automobile—A motor vehicle designed to carry up to eight passengers, excluding vans, sport utility vehicles, and motor vehicles designed primarily to transport light loads of property.

16. Automobile and light-duty truck assembly plant—A facility which assembles automobiles or light-duty trucks, including coating facilities and processes.

(B) All terms beginning with B.

1. Baked coating—A coating that is cured at a temperature at or above one hundred ninety-four degrees Fahrenheit (194°F).

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

3. Bedliner—A multi-component coating applied to a cargo bed after the application of topcoat to provide additional durability and chip resistance. For automobile and light-duty truck assembly coating facilities a bedliner is applied outside of the topcoat operation.

4. Business machine—A device that uses electronic or mechanical methods to process information, perform calculations, print or copy information, or convert sound into electrical impulses for transmission, including devices listed in standard industrial classification numbers 3572, 3573, 3574, 3579, 3661, and photocopy machines, a subcategory of standard industrial classification number 3861.

(C) All terms beginning with C.

1. Camouflage coating—A coating, used principally by the military, to conceal equipment from detection.

2. Can coating—A surface coating applied to a cylindrical steel or aluminum container. The container can be two (2) pieces (made by a drawn and wall-ironed shallow cup with only one (1) end) or three (3) pieces (made by a rectangular material rolled into a cylinder and the attachment of two (2) end pieces).

3. Can end—A can part manufactured from metal substrate for the purpose of sealing the ends of can bodies.

4. Capture device—A hood, enclosed room, floor sweep, or other means of containing or collecting solvent emissions or other pollutants into a duct so that the pollutant can be directed to an add-on control device such as an incinerator or carbon adsorber.

5. Capture efficiency—The fraction of all organic vapors or other pollutants generated by a process that is directed to a control device.

6. Capture system—One or more capture devices intended to collect emissions generated by a coating operation in the use of coatings or cleaning materials, both at the point of application and at subsequent points where emissions from the coatings and cleaning materials occur, such as flash-off, drying, or curing. Multiple capture devices that collect emissions generated by a coating operation are considered a single capture system.

7. Carbon adsorption system—A device containing adsorbent material (for example, activated carbon, aluminum, silica gel); an inlet and outlet for exhaust gases; and a system to regenerate the saturated adsorbent. The carbon adsorption system must provide for the proper disposal or reuse of all volatile organic compounds adsorbed.

8. Cavity wax—A coating applied into the cavities of the vehicle primarily for the purpose of enhancing corrosion protection.

9. Ceramic tile installation adhesive—Any adhesive intended by the manufacturer for use in the installation of ceramic tiles.

10. Class I hardboard—A hardboard panel that meets the specifications of American National Standard A135.5-2004, as approved by the American National Standards Institute in 2004, and hereby incorporated by reference in this rule, as published by the Composite Panel Association, 18922 Premiere Court, Gaithersburg, MD 20879-1574. This rule does not incorporate any subsequent amendments or additions.

11. Class II finish—A finish applied to hardboard panels that meets the specifications of American National Standard A135.5-2004, as approved by the American National Standards Institute in 2004, and hereby incorporated by reference in this rule, as published by the Composite Panel Association, 18922 Premiere Court, Gaithersburg, MD 20879-1574. This rule does not incorporate any subsequent amendments or additions.

12. Cleaning material—A solvent used to remove contaminants and other materials, such as dirt, grease, oil, and dried (e.g., depainting) or wet coating from a substrate before or after coating application or from equipment associated with a coating operation, such as spray booths, spray guns, racks, tanks, and hangers. Thus, it includes any cleaning materials used on substrates or equipment or both.

13. Cleaning operations—Processes of cleaning products, product components, tools, equipment, or general work areas during production, repair, maintenance, or servicing, including, but not limited to, spray gun cleaning, spray booth cleaning, large and small manufactured component cleaning, parts cleaning, equipment cleaning, line cleaning, floor cleaning, and tank cleaning, at affected facilities.

14. Cleanup solvent—A VOC-containing material used in cleaning operations.

15. Clear coat—A coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color. This term also includes corrosion preventative coatings used for the interior of drums or pails.

16. Coating—A protective, decorative, or functional material applied in a thin layer to a surface. Such materials include, but are not limited to, paints, topcoats, varnishes, sealers, stains, washcoats, basecoats, inks, and temporary protective coatings.

17. Coating line purging—The process of flushing paint out and cleaning the spray lines when changing colors or to remove undesired material. It includes use of air and solvents to clean the lines.

18. Coating solids (or solids)—The part of the coating that remains after the coating is dried or cured; solids content is determined using data from Method 24 of Appendix A-7 to 40 CFR 60 as specified in 10 CSR 10-6.030(22).

19. Coating solids deposited—The coating solids which remain on the substrate or object being painted.

20. Contact adhesive—A contact adhesive does not include rubber cements that are primarily intended for use on paper substrates. Contact adhesive also does not include vulcanizing fluids that are designed and labeled for tire repair only. A contact adhesive is an adhesive that—

A. Is designed for application to both surfaces to be bonded together;

B. Is allowed to dry before the two (2) surfaces are placed in contact with each other;

C. Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other; and

D. Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

21. Control device—Any equipment that reduces the quantity of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery.

22. Control device efficiency—The ratio of the pollution released by a control device and the pollution introduced to the control device, expressed as a fraction.

23. Control system—The combination of capture and control devices used to reduce emissions to the atmosphere.

24. Cove base—A flooring trim unit, generally made of vinyl or rubber, having a concave radius on one (1) edge and a convex radius on the opposite edge that is used in forming a junction between the bottom wall course and the floor or to form an inside corner.

25. Cove base installation adhesive—An adhesive intended by the manufacturer to be used for the installation of cove base or wall base on a wall or vertical surface at floor level.

26. Cyanoacrylate adhesive—An adhesive with a cyanoacrylate content of at least ninety-five percent (95%) by weight.

(D) All terms beginning with D.

1. Deadener—A coating applied to selected vehicle surfaces primarily for the purpose of reducing the sound of road noise in the passenger compartment.

2. Dip coating—A method of applying coatings in which the part is submerged in a tank filled with the coatings.

3. Drum—Any cylindrical container of thirteen to one hundred ten (13–110)-gallon capacity.

(E) All terms beginning with E.

1. Electric dissipating coating—A coating that rapidly dissipates a high-voltage electric charge.

2. Electric-insulating and thermal-conducting coating—A coating that displays an electrical insulation of at least one thousand (1,000) volts DC per mil on a flat test plate and an average thermal conductivity of at least twenty-seven hundredths British thermal units (0.27 Btu) per hour-foot-degree-Fahrenheit.

3. Electric-insulating varnish—A non-convertible-type coating applied to electric motors, components of electric motors, or power transformers, to provide electrical, mechanical, and environmental protection or resistance.

4. Electrodeposition primer (EDP)—A protective, corrosion-resistant waterborne primer on exterior and interior surfaces that provides thorough coverage of recessed areas. It is a dip coating method that uses an electrical field to apply or deposit the conductive coating onto the part. The object being painted acts as an electrode that is oppositely charged from the particles of paint in the dip tank.

5. Electromagnetic interference/radio frequency interference (EMI/RFI) shielding—A coating used on electrical or electronic equipment to provide shielding against electromagnetic interference (EMI), radio frequency interference (RFI), or static discharge.

6. Electrostatic spray application—A spray application method that uses an electrical potential to increase the transfer efficiency of the coatings.

7. Electrostatic preparation coat—A coating that is applied to a plastic part solely to provide conductivity for the subsequent application of a prime, topcoat, or other coating through the use of electrostatic application methods. An electrostatic preparation coat is clearly identified as an electrostatic preparation coat on its material safety data sheet.

8. Enamel—A coating which cures by chemical cross-linking of its base resin and is not resoluble in its original solvent.

9. End sealing compound—A coating applied to the perimeter of can ends that functions as a gasket when the end is assembled on the can.

10. Etching filler—A coating for metal that contains less than twenty-three percent (23%) solids by weight and at least one-half percent (0.5%) acid by weight, and is used instead of applying a pretreatment coating followed by a primer.

11. Extreme high-gloss coating—A coating applied to—

A. Pleasure craft which, when tested according to ASTM D523 - 14, as specified in 10 CSR 10-6.040, shows a reflectance of ninety-five percent (90%) or more on a sixty degree (60°) meter; or

B. Metal and plastic parts that are not components of pleasure craft, which, when tested according to ASTM D523 – 14, as specified in 10 CSR 10-6.040, shows a reflectance of seventy-five percent (75%) or more on a sixty degree (60°) meter.

12. Extreme-performance coating—A coating used on a metal or plastic surface where the coated surface is, in its intended use, subject to the following:

A. Chronic exposure to corrosive, caustic, or acidic agents, chemicals, chemical fumes, chemical mixtures, or solutions;

B. Repeated exposure to temperatures in excess of two hundred fifty degrees Fahrenheit (250°F); or

C. Repeated heavy abrasion, including mechanical wear and repeated scrubbing with industrial grade solvents, cleansers, or scouring agents.

(F) All terms beginning with F.

1. Fabric coating—A coating applied to a textile substrate by dipping or by means of a blade or roll.

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

3. Facility maintenance operations—The routine repair or renovation (including the surface coating) of the tools, equipment, machinery, and structures that comprise the infrastructure of the affected facility and that are necessary for the facility to function in its intended capacity.

4. Final repair—The operations performed and coating(s) applied to completely-assembled motor vehicles or to parts that are not yet on a completely assembled vehicle to correct damage or imperfections in the coating.

5. Finish primer/surfacer—A coating applied to pleasure craft with a wet film thickness of less than ten (10) mils prior to the application of a topcoat for purposes of providing corrosion resistance, adhesion of subsequent coatings, a moisture barrier, or promotion of a uniform surface necessary for filling in surface imperfections.

6. Flash-off area— Flash-off area means the portion of a coating process between the coating application station and the next coating application station or drying oven where solvent begins to evaporate from the coated substrate.

7. Flat wood paneling coating—Wood paneling products that are any interior, exterior, or tileboard (class I hardboard) panel to which a protective, decorative, or functional material or layer has been applied.

8. Flexible primer—A coating that is required to comply with engineering specifications for impact resistance, mandrel bend, or elongation as defined by the original equipment manufacturer.

9. Flexible vinyl—Non-rigid polyvinyl chloride plastic with at least five percent (5%) by weight plasticizer content.

10. Floor covering installation adhesive, indoor—An adhesive intended by the manufacturer for use in the installation of wood flooring, carpet, resilient tile, vinyl tile, vinyl-backed carpet, resilient sheet, and roll or artificial grass. Adhesives used to install ceramic tile and perimeter bonded sheet flooring with vinyl backing onto a nonporous substrate, such as flexible vinyl, are excluded from this category.

11. Floor covering installation adhesive, outdoor—Any adhesive intended by the manufacturer for use in the installation of floor covering that is not in an enclosure and that is exposed to ambient weather conditions during normal use.

12. Flow coating—A method of applying coatings in which the part is carried through a chamber containing numerous nozzles which direct unatomized streams of coatings from many different angles onto the surface of the part.

13. Flush cleaning—The removal of contaminants such as dirt, grease, and coatings from a vehicle, component, or coating equipment by passing solvent over, into, or through the item being cleaned. The solvent may simply be poured into the item cleaned and then drained, or be assisted by air, compressed gas, hydraulic pressure, or by pumping. Spray gun cleaning or hand-wipe cleaning operations where wiping, scrubbing, mopping, or other hand actions are used are not included in this definition.

14. Fog coat—A coating that is applied to a plastic part for the purpose of color matching without masking a molded-in texture.

(G) All terms beginning with G.

1. Gasket/gasket-sealing material—A fluid applied to coat a gasket or replace and perform the same function as a gasket. Automobile and light-duty truck gasket/gasket-sealing material includes room temperature vulcanization seal material.

2. Glass-bonding primer—A primer applied to windshield or other glass, or to body openings, to prepare the glass or body opening for the application of glass-bonding adhesives or the installation of adhesive-bonded glass. Glass-bonding primer includes glass-bonding/cleaning primers that perform both functions (cleaning and priming of the windshield or other glass, or body openings) prior to the application of adhesive or the installation of adhesive-bonded glass.

3. Gloss reducer—A coating that is applied to a plastic part solely to reduce the shine of the part.

(H) All terms beginning with H.

1. Hardboard—A panel manufactured primarily from interfelted lingo-cellulosic fibers which are consolidated under heat and pressure in a hot press.

2. Hardwood plywood—Plywood whose surface layer is a veneer of hardwood.

3. Heat-resistant coating—A coating that must withstand a temperature of at least four hundred degrees Fahrenheit (400°F) during normal use.

4. Heavy-duty vehicle (HDV)—Any motor vehicle rated at

more than eight thousand five hundred pounds (8,500 lbs) gross vehicle weight rating.

5. High-bake coating—A coating which is designed to cure only at temperatures of more than one hundred ninety-four degrees Fahrenheit (194 ºF).

6. High-build primer/surfacer—A coating applied to pleasure craft with a wet film thickness of ten (10) mils or more prior to the application of a topcoat for purposes of providing a moisture barrier, corrosion resistance, adhesion of subsequent coatings, or promoting a uniform surface necessary for filling in surface imperfections.

7. High-gloss coating—A coating applied to pleasure craft which, when tested by ASTM D523 – 14, as specified in 10 CSR 10-6.040, shows a reflectance of eighty-five percent (85%) or more on a sixty-degree (60°) meter.

8. High-performance architectural coating—A coating used to protect architectural subsections and which meets the requirements of the Architectural Aluminum Manufacturer Association's publication number AAMA 2604-05, Voluntary Specification, Performance Requirements, and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels or AAMA 2605-05, Voluntary Specification, Performance Requirements, and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels, as published July of 2005, and hereby incorporated by reference, as published by the American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 550, Schaumburg, IL 60173. This rule does not incorporate any subsequent amendments or additions.

9. High-temperature coating—A coating that is certified to withstand a temperature of one thousand degrees Fahrenheit (1,000 °F) for twenty-four (24) hours.

10. High-volume low-pressure (HVLP) spray equipment—Spray equipment that is used to apply coating by means of spray gun that operates at ten pounds per square inch gauge (10.0 psig) of atomizing air pressure or less at the air cap.

(I) All terms beginning with I.

1. Industrial surface coating operation—The surface coating of manufactured items intended for distribution in commerce to persons other than the person or legal entity performing the surface coating.

2. Ink jet technology—A printing method in which an electronic output device transfers variable data, in the form of a digital image, from a computer to a variety of substrates.

3. Interior body spray—A coating sprayed on the interior surface of a can body to provide a protective film between the product and the can.

(J) All terms beginning with J.

(K) All terms beginning with K.

(L) All terms beginning with L.

1. Laminate—A product made by bonding together two (2) or more layers of material.

2. Light-duty truck—Vans, sport utility vehicles, and motor vehicles designed primarily to transport light loads of property with gross vehicle weight rating of eight thousand five hundred pounds (8,500 lbs.) or less.

3. Low-bake coating—A coating designed to cure at temperatures below one hundred ninety-four degrees Fahrenheit (194 ºF).

4. Lubricating wax/compound—A protective lubricating material applied to vehicle hubs and hinges.

(M) All terms beginning with M.

1. Magnetic data storage disk coating—A coating used on a metal disk which stores data magnetically.

2. Material safety data sheet (MSDS)—The chemical, physical, technical, and safety information document supplied by the manufacturer of the coating, solvent, or other chemical product.

3. Medical device or equipment—An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar article, including any component or accessory that meets one (1) of the following conditions:

A. It is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease;

B. It is intended to affect the structure or any function of the body; or

C. It is defined in the National Formulary or the United States Pharmacopoeia, or any supplement to them.

4. Metal to urethane/rubber molding or casting adhesive—Any adhesive intended by the manufacturer to bond metal to high density or elastomeric urethane or molded rubber materials to fabricate products such as rollers for computer printers or other paper handling equipment.

5. Metallic coating—A coating which contains more than five (5) grams of metal particles per liter of coating as-applied. Metal particles are pieces of a pure elemental metal or a combination of elemental metals.

6. Military specification coating—A coating which has a formulation approved by a United States Military Agency for use on military equipment.

7. Mold seal coating—The initial coating applied to a new mold or a repaired mold to provide a smooth surface which, when coated with a mold-release coating, prevents products from sticking to the mold.

8. Motor vehicle—Any self-propelled vehicle.

9. Motor vehicle coatings—Coatings applied to motor vehicles and motor vehicle parts at facilities that are not automobile or light-duty truck assembly coating facilities.

10. Motor vehicle refinishing—The process of coating motor vehicles, or their parts, that is subsequent to the original coating applied at an original equipment manufacturing plant.

11. Multi-colored coating—A coating which exhibits more than one (1) color when applied, and which is packaged in a single container and applied in a single coat.

12. Multi-component coating—A coating requiring the addition of a separate reactive resin, commonly known as a catalyst or hardener, before application to form an acceptable dry film.

13. Multipurpose construction adhesive—Any adhesive intended by the manufacturer for use in the installation or repair of various construction materials, including but not limited to drywall, subfloor, panel, fiberglass reinforced plastic (FRP), ceiling tile and acoustical tile.

(N) All terms beginning with N.

1. Natural finish hardwood plywood panel—A panel whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

(O) All terms beginning with O.

1. One-component coating—A coating that is ready for application as it comes out of its container to form an acceptable dry film. A thinner, necessary to reduce the viscosity, is not considered a component.

2. Optical coating—A coating applied to an optical lens.

3. Overvarnish—A can coating applied to reduce the coefficient of friction (to allow for proper mobility of the can on conveyor tracks), provide gloss, and protect the finish against abrasion and corrosion.

(P) All terms beginning with P.

1. Paint—A pigmented surface coating using volatile organic compounds as the major solvent and thinner which converts to a relatively opaque solid film after application as a thin layer.

2. Pan-backing coating—A coating applied to the surfaces of pots, pans, or other cooking implements that are exposed directly to a flame or other heating elements.

3. Paper, film, and foil coating operation—A web coating line that applies a continuous layer of coating material across essentially the entire width or any portion of the width of a web substrate to—

A. Provide a covering, finish, or functional or protective

layer to a substrate;

B. Saturate a substrate for lamination; or

C. Provide adhesion between two (2) substrates for lamination.

4. Perimeter bonded sheet flooring installation—The installation of sheet flooring with vinyl backing onto a nonporous substrate using an adhesive designed to be applied only to a strip of up to four inches (4") wide around the perimeter of the sheet flooring.

5. Plastic—A synthetic material chemically formed by the polymerization of organic substances and capable of being molded, extruded, cast into various shapes and films, or drawn into filaments.

6. Plastic solvent welding adhesive—Any adhesive intended by the manufacturer for use to dissolve the surface of plastic to form a bond between mating surfaces.

7. Plastic solvent welding adhesive primer—Any primer intended by the manufacturer for use to prepare plastic substrates prior to bonding or welding.

8. Pleasure craft—A marine vessel which is manufactured or operated primarily for recreational purposes or leased, rented, or chartered to a person or business for recreational purposes.

9. Pleasure craft coating—A marine coating, except unsaturated polyester resin (fiberglass) coatings, applied by brush, spray, roller, or other means to a pleasure craft.

10. Polyvinyl chloride plastic or PVC plastic—A polymer of the chlorinated vinyl monomer that contains 57% chlorine.

11. Porous material—A substance that has tiny openings, often microscopic, in which fluids may be absorbed or discharged, including, but not limited to, paper and corrugated paperboard. For the purposes of this rule, porous material does not include wood.

12. Powder coating—Any surface coating which is applied as a dry powder and is fused into a continuous coating film with heat.

13. Prefabricated architectural component coating—A coating applied to metal parts and products which are to be used as an architectural structure.

14. Pressure sensitive tape and label coating operation—Any number or combination of adhesive, release, or precoat coating applicators, flash-off areas, and ovens which coat a continuous web, located between a web unwind station and a web rewind station, to produce pressure sensitive tape and label materials.

15. Pretreatment coating—A coating which contains no more than twelve percent (12%) solids by weight, but at least one-half percent (0.5%) acids by weight, is used to provide surface etching, and is applied directly to metal surfaces to provide corrosion resistance, adhesion, and ease of stripping.

16. Pretreatment wash primer—A coating which contains no more than twenty-five percent (25%) solids by weight, but at least one-tenth of a percent (0.1%) acids by weight, is used to provide surface etching, and is applied directly to fiberglass and metal surfaces to provide corrosion resistance and adhesion of subsequent coatings.

17. Primer—The first layer and any subsequent layers of identically formulated coating applied to the article to provide corrosion resistance, surface etching, surface leveling, adhesion promotion, or other property depending on the end use or exposure of the final product. Primers that are defined as specialty coatings are not included under this definition.

18. Primer-surfacer—An intermediate protective coating applied over the electrodeposition primer and under the topcoat at an automobile or light-duty truck assembly coating facility. Primer-surfacer provides adhesion, protection, and appearance properties to the total finish. Primer-surfacer may also be called guide coat or surfacer.

19. Printed interior panel—A panel whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

(Q) All terms beginning with Q.

(R) All terms beginning with R.

1. Reinforced plastic composite—A composite material consisting of plastic reinforced with fibers.

2. Related cleaning activity—The removal of coating residue or other unwanted materials from equipment related to coating operations as well as the cleaning of spray guns, transfer line, tanks, and the interior of spray booths.

3. Repair coating—A coating used to re-coat portions of a previously coated product which has sustained mechanical damage to the coating following normal coating operations.

4. Roller coating—The application of a coating to a substrate by means of hard rubber or metal rolls.

5. Rubber—Any natural or manmade rubber substrate, including, but not limited to, styrene-butadiene rubber, polychloroprene (neoprene), butyl rubber, nitrile rubber, chlorosulfonated polyethylene, and ethylene propylene diene terpolymer.

(S) All terms beginning with S.

1. Safety-indicating coating—A coating which changes physical characteristics, such as color, to indicate unsafe conditions.

2. Sealer—A high viscosity material, generally, but not always, applied in the paint shop after the body has received an electrodeposition primer coating and before the application of subsequent coatings (e.g., primer-surfacer). The primary purpose of sealer is to fill body joints completely so that there is no intrusion of water, gases, or corrosive materials into the passenger area of the body compartment. Such materials are also referred to as sealant, sealant primer, or caulk.

3. Sealant—Any material with adhesive properties that is formulated primarily to fill, seal, waterproof, or weatherproof gaps or joints between two (2) surfaces. Sealants include sealant primers and caulks.

4. Sheet basecoat—A coating applied to either side of flat metal sheets before they are formed into three-piece cans and can ends to protect the interior surface or provide an exterior background coating.

5. Sheet rubber lining installation—The process of applying sheet rubber liners by hand to metal or plastic substrates to protect the underlying substrate from corrosion or abrasion. These operations also include laminating sheet rubber to fabric by hand.

6. Shock-free coating—A coating applied to electrical components to protect the user from electric shock. The coating has characteristics of being of low capacitance and high resistance and having resistance to breaking down under high voltage.

7. Side-seam spray—A coating applied to the interior and/or exterior of the welded or soldered seam of a three-piece can body to protect the exposed metal.

8. Silicone-release coating—Any coating which contains silicone resin and is intended to prevent food from sticking to metal surfaces such as baking pans.

9. Single-ply roof membrane—A prefabricated single sheet of rubber, normally ethylene-propylenediene terpolymer, that is field applied to a building roof using one (1) layer of membrane material. For the purposes of this rule, single-ply roof membrane does not include membranes prefabricated from ethylene-propylenediene monomer (EPDM).

10. Single-ply roof membrane adhesive primer—A primer labeled for use to clean and promote adhesion of the single-ply roof membrane seams or splices prior to bonding.

11. Single-ply roof membrane installation/repair adhesive—An adhesive labeled for use in the installation or repair of single-ply roof membrane. Installation includes, as a minimum, attaching the edge of the membrane to the edge of the roof and applying flashings to vents, pipes, or ducts that protrude through the membrane. Repair includes gluing the edges of torn membrane together, attaching a patch over a hole, and reapplying flashings to vents, pipes, or ducts installed through the membrane.

12. Solar-absorbent coating—A coating which has as its

prime purpose the absorption of solar radiation.

13. Solid film lubricant—A very thin coating consisting of a binder system containing as its chief pigment material one (1) or more of the following:

A. Molybdenum;

B. Graphite;

C. Polytetrafluoroethylene (PTFE); and

D. Other solids that act as a dry lubricant between closely or tightly fitting surfaces.

14. Solvent—Organic materials which are liquid at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

15. Specialty coating—A coating that, even though it meets the definition of a primer, topcoat, or self-priming topcoat, has additional performance criteria beyond those of primers, topcoats, and self-priming topcoats for specific applications. These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, anti-reflection, temporary protection, or marking, sealing, adhesively joining substrates, or enhanced corrosion protection.

16. Stencil coating—An ink or a pigmented coating which is rolled or brushed onto a template or stamp to add identifying letters, symbols, and/or numbers.

17. Structural glazing—A process that includes the application of adhesive to bond glass, ceramic, metal, stone, or composite panels to exterior building frames.

18. Surface coating unit—One (1) or more coating applicators and any associated drying area and/or oven wherein a coating is applied, dried, and/or cured. A coating unit ends at the point where the coating is dried or cured, or prior to any subsequent application of a different coating. It is not necessary for a coating unit to have an oven or flash-off area.

(T) All terms beginning with T.

1. Texture coating—A coating that is applied to a plastic part which, in its finished form, consists of discrete raised spots of the coating.

2. Thin metal laminating adhesive—An adhesive intended by the manufacturer for use in bonding multiple layers of metal to metal or metal to plastic in the production of electronic or magnetic components in which the thickness of the bond line(s) is less than 0.25 millimeters.

3. Thinner— An organic solvent that is added to a coating after the coating is received from the supplier.

4. Thin particleboard—A manufactured board 0.64 centimeters (1/4 inch) or less in thickness made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure.

5. Tileboard—A premium interior wall paneling product made of hardboard that is used in high-moisture areas of the home, such as kitchens and bathrooms, and meets the specifications for Class I hardboards as approved by the American National Standards Institute.

6. Tire repair—A process that includes expanding a hole, tear, fissure, or blemish in a tire casing by grinding or gouging, applying adhesive, and filling the hole or crevice with rubber.

7. Topcoat—The final coating or coating system in which one (1) or more coats are applied for the purposes of appearance or protection of the substrate. Nonpermanent final finishes are not topcoats.

8. Touch-up coating—A coating used to cover minor coating imperfections appearing after the main coating operation.

9. Transfer efficiency—Ratio of the amount of coating solids transferred onto a product to the total of coating solids used. In any surface coating operation, TE is the ratio of solids in a coating that adhere on a target surface to the total solids used in the process for coating the target surface.

10. Translucent coating—A coating which contains binders and pigment, and is formulated to form a colored, but not opaque, film.

11. Trunk interior coating—A coating applied to the trunk interior to provide chip protection.

12. Two-component coating—A coating requiring the addition of a separate reactive resin, commonly known as a catalyst, before application to form an acceptable dry film.

13. Two-piece can exterior coating— A coating applied to the exterior surface of a two-piece can to protect the metal surface or provide a background for lithograph or printing operations.

14. Two-piece can exterior end coating—A coating applied to the exterior surface of a two-piece can end.

(U) All terms beginning with U.

1. Underbody coating—A coating applied to the undercarriage or firewall to prevent corrosion and/or provide chip protection.

2. Undersea-based weapons systems components—The fabrication of parts, assembly of parts or completed units of any portion of a missile launching system used on undersea ships.

(V) All terms beginning with V.

1. Vacuum-metalizing coating—The undercoat applied to the substrate on which the metal is deposited or the overcoat applied directly to the metal film. Vacuum metalizing/physical vapor deposition (PVD) is the process whereby metal is vaporized and deposited on a substrate in a vacuum chamber.

2. Vinyl coating—A functional, decorative, or protective topcoat or printing applied to vinyl-coated fabric or vinyl sheets.

3. Volatile organic compound (VOC)— See definition in 10 CSR 10-6.220.

(W) All terms beginning with W.

1. Waterproof resorcinol glue—A two (2)-part resorcinol-resin-based adhesive designed for applications where the bond line must be resistant to conditions of continuous immersion in fresh or salt water.

2. Weatherstrip adhesive—An adhesive applied to weatherstripping materials to bond the weatherstrip material to the surface of the vehicle.

3. Web coating line—Any number of work stations, of which one (1) or more applies a continuous layer of coating material across the entire width or any portion of the width of a web substrate, and any associated curing/drying equipment between an unwind or feed station and a rewind or cutting station.

(X) All terms beginning with X.

(Y) All terms beginning with Y.

(Z) All terms beginning with Z.

(3) General Provisions. General provisions for specific coatings may be found in the following subsections of section (3) of this rule:

Coating	Subsection
Large Appliance Coatings	(3)(A)
Metal Furniture Coatings	(3)(B)
Automobile and Light-Duty Truck Assembly Coatings	(3)(C)
Paper, Film, and Foil Coatings	(3)(D)
Magnet Wire Coatings	(3)(E)
Coil Coatings	(3)(F)
Can Coatings	(3)(G)
Vinyl and Fabric Coatings	(3)(H)
Flat Wood Paneling Coatings	(3)(I)
Miscellaneous Metal and Plastic Parts Coatings	(3)(J)
Industrial Adhesive Application	(3)(K)

(A) Large Appliance Coatings.

1. The requirements in this subsection apply to the surface coating of doors, cases, lids, panels, and interior support parts of the following residential and commercial products:

A. Washers;

B. Dryers;

C. Ranges;

D. Refrigerators;
E. Freezers;
F. Water heaters;
G. Dishwashers;
H. Trash compactors;
I. Air conditioners; and
J. Other similar products.

2. Emission limits. **No owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):**

[A. Prior to March 1, 2012, no owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):

Large Appliance Coatings	
Coating Category	*Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)*
Topcoat	*2.8*
Final Repair	*6.5*

B. On or after March 1, 2012, no owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):]

Large Appliance Coatings		
	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)	
Coating Category	Baked **Coating**	Air-Dried **Coating**
General		
[General,] One-Component **Coating**	2.3	2.3
[General,] Multi-Component **Coating**	2.3	2.8
Extreme High-Gloss **Coating**	3.0	2.8
Extreme-Performance **Coating**	3.0	3.5
Heat-Resistant **Coating**	3.0	3.5
Metallic **Coating**	3.5	3.5
Pretreatment Coatings	3.5	3.5
Solar-Absorbent **Coating**	3.0	3.5
Repair and Touch-Up **Coatings**	6.5	6.5

3. Method and determination of compliance. The emission limits in paragraph (3)(A)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds) per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limits in paragraph (3)(A)2. of this rule;

B. Combination of VOC content of coatings and add-on controls. Calculate the required control system efficiency per paragraph (5)(C)4. of this rule. The surface coating unit is in compliance if the actual overall control system efficiency is greater than or equal to the required control system efficiency; or

C. Control system. If a control system is used to achieve compliance, the overall control system efficiency must be ninety percent (90%) or greater.

4. Application equipment. *[On or after March 1, 2012, o]***O**ne (1) or a combination of the following equipment shall be used for coating application, unless achieving compliance by using an add-on control system per subparagraph (3)(A)3.C. of this rule:

A. Electrostatic *[equipment]* **spray application**;
B. High-volume low-pressure (HVLP) spray equipment;
C. Flow coating;
D. Roller coating;
E. Dip coating, including electrodeposition;
F. Airless spray;
G. Air-assisted airless spray;
H. Ink jet technology; and
I. Other coating application method capable of achieving a transfer efficiency equivalent or better than achieved by HVLP spraying.

5. Work practices. *[On or after March 1, 2012, w]***W**ork practices shall be used to minimize VOC emissions from solvent storage, mixing operations, and handling operations for coatings, thinners, cleaning materials, and waste materials. Work practices *[shall]* include, but **are** not *[be]* limited to, the following:

A. Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

B. Ensure that mixing and storage containers used for VOC-containing coatings, thinners, coating related waste, and cleaning materials are kept closed at all times except when depositing or removing these materials;

C. Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

D. Clean up spills immediately;

E. Convey any coatings, thinners, and cleaning materials in closed containers or pipes from one (1) location to another; and

F. Minimize VOC emissions from the cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

6. The VOC limits in paragraph (3)(A)2. of this rule do not apply to the following types of coatings and coating operations:

A. Stencil coatings;
B. Safety-indicating coatings;
C. Solid film lubricants; or
D. Electric-insulating and thermal-conducting coatings.

(B) Metal Furniture Coatings.

1. The requirements in this subsection apply to surface coating of any furniture made of metal or any metal part that will be assembled with other metal, wood, fabric, plastic, or glass parts to form a furniture piece.

2. Emission limits. **No owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):**

[A. Prior to March 1, 2012, no owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of three (3.0) pounds of VOC per gallon of coating (minus water and exempt compounds) as delivered to the coating applicator(s).

B. On or after March 1, 2012, no owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):]

Metal Furniture Coatings		
	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)	
Coating Category	Baked **Coating**	Air-Dried **Coating**
General		
[General,] One-Component **Coating**	2.3	2.3
[General,] Multi-Component **Coating**	2.3	2.8
Extreme High-Gloss **Coating**	3.0	2.8
Extreme-Performance **Coating**	3.0	3.5
Heat-Resistant **Coating**	3.0	3.5
Metallic **Coating**	3.5	3.5
Pretreatment Coatings	3.5	3.5
Solar-Absorbent **Coating**	3.0	3.5

3. Method and determination of compliance. The emission limits in paragraph (3)(B)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds) per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limits in paragraph (3)(B)2. of this rule;

B. Combination of VOC content of coatings and add-on controls. Calculate the required control system efficiency per paragraph (5)(C)4. of this rule. The surface coating unit is in compliance if the actual overall control system efficiency is greater than or equal to the required control system efficiency; or

C. Control system. If a control system is used to achieve compliance, the overall control system efficiency must be ninety percent (90%) or greater.

4. Application equipment. *[On or after March 1, 2012, o]***O**ne (1) or a combination of the following equipment shall be used for coating application, unless achieving compliance by using an add-on control system per subparagraph (3)(B)3.C. of this rule:

A. Electrostatic *[equipment]* **spray application**;

B. HVLP spray equipment;

C. Flow coating;

D. Roller coating;

E. Dip coating, including electrodeposition;

F. Airless spray;

G. Air-assisted airless spray;

H. Ink jet technology; and

I. Other coating application method capable of achieving a transfer efficiency equivalent or better than achieved by HVLP spraying.

5. Work practices. *[On or after March 1, 2012, w]***W**ork practices shall be used to minimize VOC emissions from solvent storage, mixing operations, and handling operations for coatings, thinners, cleaning materials, and waste materials. Work practices *[shall]* include, but **are** not *[be]* limited to, the following:

A. Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

B. Ensure that mixing and storage containers used for VOC-containing coatings, thinners, coating related waste, and cleaning materials are kept closed at all times except when depositing or removing these materials;

C. Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

D. Clean up spills immediately;

E. Convey any coatings, thinners, and cleaning materials in closed containers or pipes from one (1) location to another; and

F. Minimize VOC emissions from the cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

6. The VOC limits in paragraph (3)(B)2. of this rule do not apply to the following types of coatings and coating operations:

A. Stencil coatings;

B. Safety-indicating coatings;

C. Solid film lubricants; and

D. Electric-insulating and thermal-conducting coatings.

(C) Automobile and Light-Duty Truck Assembly Coatings.

1. The requirements in this subsection apply to automobile and light-duty truck surface coating operations performed in an automobile or light-duty truck assembly *[installation]* **plant**.

2. Emission limits. **No owner or operator of an automobile or light-duty truck assembly plant may cause, allow, or permit the discharge into the ambient air of any VOC in excess of the following:**

[A. Prior to March 1, 2012, no owner or operator of an automobile or light duty truck assembly installation may cause, allow, or permit the discharge into the ambient air of any VOC in excess of the following:

Automobile and Light Duty Truck Assembly Coatings	
Coating Category	*Emission Limit*
Topcoat	*15.1 pounds of VOC per gallon of coating solids deposited*
Spray Primer or Primer Surfacer	*15.1 pounds of VOC per gallon of coating solids deposited*
Electrodeposition Primer	*1.4 pounds of VOC per gallon of coating solids deposited*
Final Repair	*4.8 pounds of VOC per gallon of coating (minus water and exempt compounds)*
Miscellaneous Metal Parts, Extreme Performance, and Air Dried Coatings	*3.5 pounds of VOC per gallon of coating (minus water and exempt compounds)*
All Other Coatings	*3.0 pounds of VOC per gallon of coating (minus water and exempt compounds)*

B. On or after March 1, 2012, no owner or operator of an automobile or light duty truck assembly installation may cause, allow, or permit the discharge into the ambient air of any VOC in excess of the following:]

Automobile and Light-Duty Truck Assembly Coatings			
Coating Category	Emission Limit		
Electrodeposition primer (EDP)	$R_T < 0.040$	$0.040 \le R_T < 0.160$	$R_T \ge 0.160$
	No VOC Emission Limit	$0.7 \times 350^{0.160\text{-}RT}$ pounds of VOC per gallon of coating solids deposited	0.7 pounds of VOC per gallon of coating solids deposited
Primer-surfacer	12.0 pounds of VOC per gallon of coating solids deposited		
Topcoat	12.0 pounds of VOC per gallon of coating solids deposited		
Combined Primer-Surfacer and Topcoat	12.0 pounds of VOC per gallon of coating solids deposited		
Final repair	4.8 pounds of VOC per gallon of coating (minus water and exempt compounds)		

Miscellaneous **Automobile and Light-Duty Truck** Materials	
Material	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)
*[Automobile and light-duty truck g]***G**lass-bonding primer	7.5
*[Automobile and light-duty truck a]***A**dhesive	2.1
*[Automobile and light-duty truck c]***C**avity wax	5.4
*[Automobile and light-duty truck s]***S**ealer	5.4
*[Automobile and light-duty truck d]***D**eadener	5.4
*[Automobile and light-duty truck g]***G**asket/gasket-sealing material	1.7
*[Automobile and light-duty truck u]***U**nderbody coating	5.4
*[Automobile and light-duty truck t]***T**runk interior coating	5.4
*[Automobile and light-duty truck b]***B**edliner	1.7
*[Automobile and light-duty truck w]***W**eatherstrip adhesive	6.3
*[Automobile and light-duty truck l]***L**ubricating wax/compound	5.8

3. Method and determination of compliance. The emission limits in paragraph (3)(C)2. of this rule shall be achieved through the following:

A. Spray primer; primer-surfacer; topcoat; and combined primer-surfacer and topcoat. The VOC emission rate, expressed as pounds of VOC per gallon of coating solids deposited, is determined by the procedures in the *[U.S. Environmental Protection Agency (EPA) document] Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat Operations* (EPA-453/R-08-002), dated September 2008**, and hereby incorporated by reference, as published by the U.S. Environmental Protection Agency**. **Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.** The surface coating unit is in compliance if the emission rate is less than or equal to the emission limit in paragraph (3)(C)2. of this rule;

B. Electrodeposition primer (EDP). Determine the monthly volume-weighted average VOC emission rate of the EDP coating unit, expressed as pounds of VOC per gallon of coating solids deposited, per subparagraph (5)(C)3.D. of this rule. The EDP coating unit is in compliance if this value is less than or equal to the emission limit in paragraph (3)(C)2. of this rule;

C. Final repair coatings. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds) per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limits in paragraph (3)(C)2. of this rule; and

D. All other coatings. Determine the monthly volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds) per subparagraph (5)(C)3.E. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limit in paragraph (3)(C)2. of this rule.

4. Work practices and work practice plan.

A. Work practices. *[On or after March 1, 2012, w]***W**ork practices shall be used to minimize VOC emissions from storage, mixing operations, and handling operations for coatings, thinners, cleaning materials, and waste materials. Work practices *[shall]* include, but **are** not *[be]* limited to, the following:

(I) Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

(II) Ensure that mixing and storage containers used for VOC-containing coatings, thinners, coating related waste, and cleaning materials are kept closed at all times except when depositing or removing these materials;

(III) Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

(IV) Clean up spills immediately;

(V) Convey any coatings, thinners, and cleaning materials in closed containers or pipes from one (1) location to another; and

(VI) Minimize VOC emissions from the cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

B. Work practice plan. *[Installations]* **owners and operators of facilities** subject to subparagraph (3)(C)4.A. of this rule shall develop and implement a work practice plan to minimize VOC emissions from cleaning and purging of equipment associated with all coating operations for which emission limits are specified in paragraph (3)(C)2. of this rule. The plan shall specify practices and procedures to ensure that VOC emissions from the following operations are minimized:

(I) Vehicle body wiping;

(II) Coating line purging;

(III) Flush*[ing]* **cleaning** of coating systems;

(IV) Cleaning of spray booth grates;

(V) Cleaning of spray booth walls;

(VI) Cleaning of spray booth equipment;

(VII) Cleaning external spray booth areas; and

(VIII) Other housekeeping measures, such as keeping solvent-laden rags in closed containers.

(D) Paper, Film, and Foil Coatings.

1. The requirements in this subsection apply to paper, film, and foil coating operations, with the exception of the following:

A. Paper, film, and foil surface coating units with potential to emit below twenty-five (25) tons per year of VOC from coating, prior to controls;

B. Coating performed on or in-line with any offset lithographic, screen, letterpress, flexographic, rotogravure, or digital printing press that is part of a printing process; and

C. Size presses and on-machine coaters on papermaking machines that apply sizing or water-based clays.

2. Emission limits. **No owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):**

[A. Prior to March 1, 2012, no owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of two and nine-tenths (2.9) pounds of VOC per gallon of coating (minus water and exempt compounds) as delivered to the coating applicator(s).

B. On or after March 1, 2012, no owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):]

Paper, Film, and Foil Coatings	
Coating Category	Emission Limit pounds of VOC per pound of coating solids
Pressure sensitive tape and label **coating operation**	0.2
Paper, film, and foil *[surface]* coating (not including pressure sensitive tape and label **coating operations**)	0.4

3. Method and determination of compliance. The emission limits in paragraph (3)(D)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. **Determine the daily mass-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per pound of coating solids per subparagraph (5)(C)3.C. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limits in paragraph (3)(D)2. of this rule; or**

[(I) Prior to March 1, 2012. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds) per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limit in paragraph (3)(D)2. of this rule.

(II) On or after March 1, 2012. Determine the daily mass-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per pound of coating solids per subparagraph (5)(C)3.C. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limits in paragraph (3)(D)2. of this rule; or]

B. Control system. If a control system is used to achieve compliance, the overall control system efficiency must be ninety percent (90%) or greater.

4. Work practices. *[On or after March 1, 2012, w]***W**ork practices shall be used to minimize VOC emissions from solvent storage, mixing operations, and handling operations for coatings, thinners, cleaning materials, and waste materials. Work practices *[shall]* include, but **are** not *[be]* limited to, the following:

A. Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

B. Ensure that mixing and storage containers used for VOC-containing coatings, thinners, coating related waste, and cleaning materials are kept closed at all times except when depositing or removing these materials;

C. Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

D. Clean up spills immediately;

E. Convey any coatings, thinners, and cleaning materials in closed containers or pipes from one (1) location to another; and

F. Minimize VOC emissions from the cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

(E) Magnet Wire Coatings.

1. The requirements in this subsection apply to the coating of electric*[ally]*-insulating varnish or enamel to aluminum or copper wire for use in electrical machinery.

2. Emission limits. No owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of one and seven-tenths (1.7) pounds of VOC per gallon of coating (minus water and exempt compounds) as delivered to the coating applicator(s).

3. Method and determination of compliance. The emission limits in paragraph (3)(E)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limit in paragraph (3)(E)2. of this rule;

B. Combination of VOC content of coatings and add-on controls. Calculate the required control system efficiency per paragraph (5)(C)4. of this rule. The surface coating unit is in compliance if the actual overall control system efficiency is greater than or equal to the required control system efficiency; or

C. Control system. If a control system is used to achieve compliance, the overall control system efficiency must be ninety percent (90%) or greater.

(G) Can Coatings.

1. The requirements in this subsection apply to the surface coating of cans.

2. Emission limits. No owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any volatile organic compounds, as delivered to the coating applicator(s), in excess of the following:

[Can Coatings	
Coating Category	*Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)*
2-Piece Exterior Sheet Basecoat	*2.8*
2- and 3-Piece Interior Body Spray	*4.2*
2-Piece End Exterior	*4.2*
3-Piece Side Seam	*5.5*
End Seal Compound	*3.7]*

Can Coatings	
Coating Category	**Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)**
Sheet Basecoat	**2.8**
Overvarnish	**2.8**
Two-Piece Can Exterior Coating	**2.8**
Interior Body Spray	**4.2**
Two-Piece Can Exterior End Coating	**4.2**
Side-Seam Spray	**5.5**
End Sealing Compound	**3.7**

3. Method and determination of compliance. The emission limits in paragraph (3)(G)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limit in paragraph (3)(G)2. of this rule;

B. Combination of VOC content of coatings and add-on controls. Calculate the required control system efficiency per paragraph (5)(C)4. of this rule. The surface coating unit is in compliance if the actual overall control system efficiency is greater than or equal to the required control system efficiency; or

C. Control system. If a control system is used to achieve compliance, the overall control system efficiency must be ninety percent (90%) or greater.

(H) Vinyl and Fabric Coatings.

1. The requirements in this subsection apply to vinyl coating and fabric coating.

2. Emission limits. No owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any *[volatile organic compounds]* **VOCs**, as delivered to the coating applicator(s), in excess of the following:

Vinyl and Fabric Coatings	
Coating Category	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)
Vinyl	3.8
Fabric	2.9

3. Method and determination of compliance. The emission limits in paragraph (3)(H)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limit in paragraph (3)(H)2. of this rule;

B. Combination of VOC content of coatings and add-on controls. Calculate the required control system efficiency per paragraph (5)(C)4. of this rule. The surface coating unit is in compliance if the actual overall control system efficiency is greater than or equal to the required control system efficiency; or

C. Control system. If a control system is used to achieve compliance, the overall control system efficiency must be ninety percent (90%) or greater.

(I) Flat Wood Paneling Coatings.

1. The requirements in this subsection apply to the coating of the following:

A. Printed interior panels made of hardwood plywood and thin particleboard;

B. Natural finish hardwood plywood panels;

C. Hardboard paneling with Class II finishes;

D. Exterior siding; and

E. Tileboard.

2. Emission limits. *[On or after March 1, 2012, n]***N**o owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of two and one-tenths (2.1) pounds of VOC per gallon of coating (minus water and exempt compounds) as delivered to the coating applicator(s).

3. Method and determination of compliance. The emission limits in paragraph (3)(I)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limit in paragraph (3)(I)2. of this rule;

B. Combination of VOC content of coatings and add-on controls. Calculate the required control system efficiency per paragraph (5)(C)4. of this rule. The surface coating unit is in compliance if the actual overall control system efficiency is greater than or equal to the required control system efficiency; or

C.Control system. If a control system is used to achieve compliance, the overall control system efficiency must be ninety percent (90%) or greater.

4. Work practices. *[On or after March 1, 2012, w]***W**ork practices shall be used to minimize VOC emissions from solvent storage, mixing operations, and handling operations for coatings, thinners, cleaning materials, and waste materials. Work practices *[shall]* include, but **are** not *[be]* limited to, the following:

A. Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

B. Ensure that mixing and storage containers used for VOC-containing coatings, thinners, coating related waste, and cleaning materials are kept closed at all times except when depositing or removing these materials;

C. Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

D. Clean up spills immediately;

E. Convey any coatings, thinners, and cleaning materials in closed containers or pipes from one (1) location to another; and

F. Minimize VOC emissions from the cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

(J) Miscellaneous Metal and Plastic Parts Coatings.

1. The requirements in this subsection apply to the surface coating of all other miscellaneous metal and plastic parts including, but not limited to, the following:

A. Large and small farm implements and machinery;

B. Railroad cars;

C. Small household appliances;

D. Office equipment;

E. Commercial and industrial machinery and equipment;

F. Any other industrial category that coats metal parts or products under the Standard Industrial Classification Code of major groups #33, #34, #35, #36, #37, #38, and #39;

G. Fabricated metal products;

H. Molded plastic parts;

I. Automotive or transportation equipment;

J. Interior or exterior automotive parts;

K. Construction equipment;

L. Motor vehicle accessories;

M. Bicycles and sporting goods;

N. Toys;

O. Recreational vehicles;

P. Pleasure craft (recreational boats);

Q. Extruded aluminum structural components;

R. Heavy-duty vehicles;

S. Lawn and garden equipment;

T. Business machines;

U. Laboratory and medical equipment;

V. Electronic equipment;

W. Steel drums;

X. Metal pipes; and

Y. Prefabricated architectural components when the coating is applied in a surface coating unit *[as defined in 10 CSR 10-6.020]*.

2. Emission limits. **No owner or operator of a surface coating**

unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):

[A. Prior to March 1, 2012, no owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):

Coating Category	*Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)*
Metal Parts	
Clear Coat	*4.3*
Extreme Performance Coatings	*3.5*
Air Dried Coatings	*3.5*
All Other Coatings	*3.0*
Plastic Parts	*3.5*
Railroad Cars	*3.5*
Farm Implements and Machinery	*3.5*
Heavy Duty Trucks	*3.5*
Mail Boxes and Shutters	*3.5*

B. On or after March 1, 2012, no owner or operator of a surface coating unit subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):]

Metal Parts and Products Coatings		
	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)	
Coating Category	Air-Dried **Coating**	Baked **Coating**
General		
[General,] One-Component **Coating**	2.8	2.3
[General,] Multi-Component **Coating**	2.8	2.3
Camouflage **Coating**	3.5	3.5
Clear Coat	4.3	4.3
Electric-Insulating Varnish	3.5	3.5
Etching Filler	3.5	3.5
Extreme High-Gloss **Coating**	3.5	3.0
Extreme-Performance **Coating**	3.5	3.0
Heat-Resistant **Coating**	3.5	3.0
High-Performance Architectural **Coating**	6.2	6.2
High-Temperature **Coating**	3.5	3.5
Metallic **Coating**	3.5	3.5
Military Specification **Coating**	2.8	2.3
Mold Seal **Coating**	3.5	3.5
Pan-Backing **Coating**	3.5	3.5
Prefabricated Architectural **Component Coating**	3.5	2.3
Pretreatment Coatings	3.5	3.5
Repair and Touch-Up **Coatings**	3.5	3.0
Silicone-Release **Coating**	3.5	3.5
Solar-**Coating** Absorbent	3.5	3.0
Vacuum-Metalizing **Coating**	3.5	3.5
Drum, New, Exterior	2.8	2.8
Drum, New, Interior	3.5	3.5
Drum, Reconditioned, Exterior	3.5	3.5
Drum, Reconditioned, Interior	4.2	4.2

Plastic and Rubber Parts and Products Coatings	
Coating Category	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)
Automotive/Transportation	
High-Bake **Coating** Interior and Exterior Parts	
Flexible Primer	4.5
Non-Flexible Primer	3.5
Basecoat	4.3
Clear Coat	4.0
Non-Basecoat/Clear Coat	4.3
Low-Bake **Coating**/Air-Dried **Coating**, Exterior Parts	
Primer	4.8
Basecoat	5.0
Clear Coat	4.5
Non-Basecoat/Clear Coat	5.0
Low-Bake **Coating**/Air-Dried **Coating**, Interior Parts	5.0
Touch-Up and Repair **Coatings**	5.2
Business Machine	
Primer	2.9
Topcoat	2.9
Texture Coat	2.9
Fog Coat	2.2
Touch-Up and Repair **Coatings**	2.9
Plastic and Rubber, All Other	
General	
[General,] One-Component **Coating**	2.3
[General,] Multi-Component **Coating**	3.5
Electric Dissipating **Coating** and Shock-Free **Coating**	6.7
Extreme-Performance **Coating**	3.5
Metallic **Coating**	3.5
Military Specification **Coating**	
[One (1) Pack] **One-Component Coating**	2.8
[Two (2) Pack] **Two-Component Coating**	3.5
Mold Seal **Coating**	6.3
Multi-Colored **Coating**	5.7
Optical **Coating**	6.7
Polyurethane Shoe Sole	6.7
Vacuum-Metalizing **Coating**	6.7
Decorative Coating of Foam Products, Dip Coated, Air Dried	**5.7**

Pleasure Craft Coatings	
Coating Category	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)
Extreme High-Gloss *[Topcoat]* **Coating**	5.0
High-Gloss *[Topcoat]* **Coating**	3.5
Pretreatment Wash Primer	6.5
Finish Primer/Surfacer	5.0
High-Build Primer/Surfacer	2.8
Aluminum Substrate Antifoulant **Coating**	4.7
Other Substrate Antifoulant **Coating**	3.3
Antifoulant Sealer/Tie **Coating**	3.5
All Other **Coatings**	3.5

Motor Vehicle *[Materials]* **Coatings**	
Coating Category	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)
[Motor Vehicle] Cavity Wax	5.4
[Motor Vehicle] Sealer	5.4
[Motor Vehicle] Deadener	5.4
[Motor Vehicle] Gasket/Gasket-Sealing Material	1.7
[Motor Vehicle] Underbody **Coating**	5.4
[Motor Vehicle] Trunk Interior **Coating**	5.4
[Motor Vehicle] Bedliner	1.7
[Motor Vehicle] Lubricating Wax/Compound	5.8

3. Method and determination of compliance. The emission limits in paragraph (3)(J)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. Determine the daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), per subparagraph (5)(C)3.A. of this rule. The surface coating unit is in compliance if this value is less than or equal to the emission limit in paragraph (3)(J)2. of this rule;

B. Combination of VOC content of coatings and add-on controls. Calculate the required control system efficiency per paragraph (5)(C)4. of this rule. The surface coating unit is in compliance if the actual overall control system efficiency is greater than or equal to the required control system efficiency; or

C. Control system. If a control system is used to achieve compliance, the overall control system efficiency must be ninety percent (90%) or greater.

4. Application equipment. *[On or after March 1, 2012, o]***O**ne (1) or a combination of the following equipment shall be used for coating application, unless achieving compliance by using an add-on control device per subparagraph (3)(J)3.C. of this rule:

A. Electrostatic *[equipment]* **spray application**;

B. HVLP spray equipment;

C. Flow coating;

D. Roller coating;

E. Dip coating, including electrodeposition;

F. Airless spray;

G. Air-assisted airless spray;

H. Ink jet technology; and

I. Other coating application method capable of achieving a transfer efficiency equivalent or better than achieved by HVLP spraying.

5. Work practices. *[On or after March 1, 2012, w]***W**ork practices shall be used to minimize VOC emissions from solvent storage, mixing operations, and handling operations for coatings, thinners, cleaning materials, and waste materials. Work practices *[shall]* include, but **are** not *[be]* limited to, the following:

A. Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

B. Ensure that mixing and storage containers used for VOC-containing coatings, thinners, coating related waste, and cleaning materials are kept closed at all times except when depositing or removing these materials;

C. Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

D. Clean up spills immediately;

E. Convey any coatings, thinners, and cleaning materials in closed containers or pipes from one (1) location to another; and

F. Minimize VOC emissions from the cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

6. For metal parts coatings, the VOC limits in paragraph (3)(J)2. of this rule do not apply to the following types of coatings and coating operations:

A. Stencil coatings;

B. Safety-indicating coatings;

C. Solid film lubricants;

D. Electric-insulating and thermal-conducting coatings;

E. Magnetic data storage disk coatings; and

F. Plastic extruded onto metal parts to form a coating.

7. For metal parts coatings, the application equipment requirements in paragraph (3)(J)4. of this rule do not apply to the following types of coatings and coating operations:

A. Touch-up coatings;

B. Repair coatings; and

C. Textured coatings.

8. For plastic parts coatings, the VOC limits in paragraph (3)(J)2. of this rule do not apply to the following types of coatings and coating operations:

A. Touch-up and repair coatings;

B. Stencil coatings applied on clear or transparent substrates;

C. Clear or translucent coatings;

D. Coatings applied at a paint manufacturing *[installation]* **facility** while conducting performance tests on the coatings;

E. Any individual coating category used in volumes less than fifty (50) gallons in any one (1) year, if substitute compliant coatings are not available, provided that the total usage of all such coatings does not exceed two hundred (200) gallons per year, per *[installation]* **facility**;

F. Reflective coating applied to highway cones;

G. Mask coatings that are less than one-half (0.5) millimeter thick (dried) and the area coated is less than twenty-five (25) square inches;

H. Electromagnetic interference and radio frequency interference (EMI/RFI) shielding coatings; and

I. Heparin-benzalkonium chloride (HBAC)-containing coatings applied to medical devices, provided that the total usage of all such coatings does not exceed one hundred (100) gallons per year, per *[installation]* **facility**.

9. For plastic parts coatings, the application equipment requirements in paragraph (3)(J)4. of this rule do not apply to airbrush operations using five (5) gallons or less per year of coating.

10. For automobile, transportation, or business machine plastic parts coatings, the VOC limits in paragraph (3)(J)2. of this rule do not apply to the following types of coatings and coating operations:

A. Texture coatings;

B. Vacuum metalizing coatings;

C. Gloss reducers;

D. Texture adhesion primers;

E. Electrostatic preparation coatings;

F. Resist coatings; and

G. Stencil coatings.

11. For pleasure craft surface coating operations, the application equipment requirements in paragraph (3)(J)4. of this rule do not apply to extreme high-gloss coatings.

12. The limits for military specification coatings in subparagraph (3)(J)2.B. of this rule do not apply to coatings that meet the following criteria:

A. The coating is **only** applied to military equipment used for national defense;

B. The coating performance is critical to the successful operation of the military equipment; **and**

C. The coating is mandated in a specification or contract and a substitution of coatings that meet the VOC limits in subparagraph (3)(J)2.B. of this rule is prohibited*[; and]***.**

[D. The director grants approval for the use of the coating at the installation.]

13. The limits for pleasure craft coatings in subparagraph (3)(J)2.B. do not apply to pleasure craft touch-up and repair coatings supplied by the manufacturer or supplier in containers with a net volume of one (1) liter or less.

(K) Industrial Adhesive Application.

1. The requirements in this subsection apply to adhesive application processes.

2. Emission limits.

A. *[On or after March 1, 2012, n]***N**o owner or operator of an adhesive application process subject to this subsection may cause, allow, or permit the discharge into the ambient air of any VOCs in excess of the following, as delivered to the coating applicator(s):

Category	Emission Limit pounds of VOC per gallon of coating (minus water and exempt compounds)
Adhesives Applied to the Specific Substrates	
Reinforced Plastic Composites	1.7
Flexible Vinyl	2.1
Metal	0.3
Porous Material (Except Wood)	1.0
Rubber	2.1
Wood	0.3
Other Substrates	2.1
Specialty Adhesive Application Processes	
Ceramic Tile Installation	1.1
Contact Adhesive	2.1
Cove Base Installation **Adhesive**	1.3
Floor Covering Installation **Adhesive**, Indoor	1.3
Floor Covering Installation **Adhesive**, Outdoor	2.1
[Floor Covering Installation,] Perimeter Bonded Sheet *[Vinyl]* **Flooring Installation**	5.5
Metal to Urethane/Rubber Molding or Casting	7.1
Motor Vehicle	
[Motor Vehicle] Adhesive	2.1
[Motor Vehicle] Weatherstrip Adhesive	6.3
Multipurpose Construction	1.7
ABS Plastic Solvent Welding*[, ABS]*	3.3
Plastic Solvent Welding, Except ABS **Plastic Solvent Welding**	4.2
Sheet Rubber Lining Installation	7.1
Single-Ply Roof Membrane Installation/Repair, Except EPDM Glue	2.1
Structural Glazing	0.8
Thin Metal Laminating	6.5
Tire Repair	0.8
Waterproof Resorcinol **Glue**	1.4
Adhesive Primer Application Processes	
[Motor Vehicle] Glass-Bonding Primer **(Motor Vehicle)**	7.5
Plastic Solvent Welding Adhesive Primer	5.4
Single-Ply Roof Membrane Adhesive Primer	2.1
Other Adhesive Primer	2.1

B. The VOC limits in subparagraph (3)(K)2.A. of this rule for adhesives or adhesive primers applied to particular substrates shall apply as follows:

(I) If an adhesive is subject to a specific VOC limit in subparagraph (3)(K)2.A., the specific limit is applicable rather than an adhesive-to-substrate limit; and

(II) When an adhesive is used to bond dissimilar substrates, the applicable substrate category with the highest VOC content *[shall be]* **determines** the limit.

3. Method and determination of compliance. The emission limits in paragraph (3)(K)2. of this rule shall be achieved through one (1) of the following:

A. VOC content of coatings. Determine the daily volume-weighted average VOC content of all coatings used in an adhesive application process, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds) per subparagraph (5)(C)3.A. of this rule. The adhesive application process is in compliance if this value is less than or equal to the emission limits in paragraph (3)(K)2. of this rule;

B. Combination of VOC content of coatings and add-on controls. Calculate the required control system efficiency per paragraph (5)(C)4. of this rule. The adhesive application process is in compliance if the actual overall control system efficiency is greater than or equal to the required control system efficiency; or

C. Control system. If a control system is used to achieve compliance, the overall control system efficiency must be eighty-five percent (85%) or greater.

4. Application equipment. *[On or after March 1, 2012, o]***O**ne (1) or a combination of the following equipment shall be used for adhesive application, unless achieving compliance by using an add-on control device per subparagraph (3)(K)3.C. of this rule:

A. Electrostatic spray **application**;

B. HVLP spray **equipment**;

C. Flow coat**ing**;

D. Roller coat**ing** or hand application, including non-spray application methods similar to hand- or mechanically-powered caulking gun, brush, or direct hand application;

E. Dip coat**ing**, including electrodeposition;

F. Airless spray;

G. Air-assisted airless spray;

H. Ink jet technology; and

I. Other coating application method capable of achieving a transfer efficiency equivalent or better than achieved by HVLP spraying.

5. Work practices. *[On or after March 1, 2012, w]***W**ork practices shall be used to minimize VOC emissions from solvent storage, mixing operations, and handling operations for coatings, thinners, cleaning materials, and waste materials. Work practices *[shall]* include, but **are** not *[be]* limited to, the following:

A. Store all VOC-containing coatings, thinners, and cleaning materials in closed containers;

B. Ensure that mixing and storage containers used for VOC-containing coatings, thinners, coating related waste, and cleaning materials are kept closed at all times except when depositing or removing these materials;

C. Minimize spills of VOC-containing coatings, thinners, and cleaning materials;

D. Clean up spills immediately;

E. Convey any coatings, thinners, and cleaning materials in closed containers or pipes from one (1) location to another; and

F. Minimize VOC emissions from the cleaning of application, storage, mixing, and conveying equipment by ensuring that equipment cleaning is performed without atomizing the cleaning solvent and all spent solvent is captured in closed containers.

(4) Reporting and Record Keeping.

(A) The owner or operator of a surface coating unit covered under this rule shall keep records as necessary to determine compliance. Records kept should be appropriate for the facility, their products, and operations. These may include, as applicable, one (1) or more of the following:

1. Current list of coatings used and the VOC content as-applied;

2. Daily volume usage of each coating;

3. Records of the weighted average VOC content for each coating type included in averaging for coating operations that achieve compliance through coating VOC content or a combination of coating VOC content and control system;

4. Annual VOC emissions from surface coating equipment cleaning; and

5. All test results to determine capture efficiency, control efficiency, and coating properties.

(D) Records required under subsections (4)(A) through (4)(C) of this rule shall be retained by the owner or operator for a minimum of five (5) years*[. These records shall be]* **and** made available to the director upon request.

(5) Test Methods.

(A) Test Methods for Control Systems. Owners or operators demonstrating compliance with the provisions of this rule via a control system shall determine the overall control system efficiency as the product of the capture efficiency and control device efficiency, using the following test methods:

1. The VOC concentration of gaseous air streams shall be determined with a test consisting of three (3) separate runs, each lasting a minimum of sixty (60) minutes using one (1) of the following methods as specified by 40 CFR 60, Appendix A*[—Reference Methods]* **in 10 CSR 10-6.030(22)**:

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

B. Method 25—Determination of Total Gaseous Nonmethane Organic Emissions as Carbon; or

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

2. Sample and velocity traverses shall be determined by using one (1) of the following methods as specified by 40 CFR 60, Appendix A*[—Reference Methods]* **in 10 CSR 10-6.030(22)**:

A. Method 1—Sample and Velocity Traverses for Stationary Sources; or

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

3. Velocity and volumetric flow rates shall be determined by using one (1) of the following methods as specified by 40 CFR 60, Appendix A*[—Reference Methods]* **in 10 CSR 10-6.030(22)**:

A. Method 2—Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube);

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

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

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

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

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

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

4. To analyze the exhaust gases, use *[the method in 10 CSR 10-6.030(3)]* **Method 3 as specified by 40 CFR 60, Appendix A in 10 CSR 10-6.030(22)**;

5. To measure the moisture in the stack gas, use *[the method in 10 CSR 10-6.030(4)]* **Method 4 as specified by 40 CFR 60, Appendix A in 10 CSR 10-6.030(22)**; and

6. To determine capture efficiency, use the procedure in *[10 CSR 10-6.030(20)]* **10 CSR 10-6.030(20)**.

(B) Test Methods for Determining Coating Properties. The coating properties in paragraphs (5)(B)1. through (5)(B)6. of this rule shall be determined from the coating manufacturer's supplied data or the *[method referenced in 10 CSR 10-6.030(14)(C)]* **Method 24 as specified by 40 CFR 60, Appendix A in 10 CSR 10-6.030(22)**. If there is a discrepancy between the manufacturer's supplied data and the *[method referenced in 10 CSR 10-6.030(14)(C)]* **Method 24**, compliance shall be based on *[the method referenced in 10 CSR 10-6.030(14)(C)]* **Method 24**.

1. Density of coating, DC.

A. Electrodeposition primer. For electrodeposition primer, the coating density *[shall be]* **is** as-received.

B. All other coatings. For all other coatings, the coating density *[shall be]* **is** as-applied.

2. Volume fraction of solids in the coating, V_S.

A. Electrodeposition primer. For electrodeposition primer, the volume fraction of solids in the coating *[shall be]* **is** as-received.

B. All other coatings. For all other coatings, the volume fraction of solids in the coating *[shall be]* **is** as-applied.

3. Weight fraction of exempt compounds in the coating, W_E.

4. Weight fraction of regulated VOC in the coating, W_O. This value does not include the weight fraction of water or exempt compounds.

A. Electrodeposition primer. For electrodeposition primer, the weight fraction of VOC in the coating *[shall be]* **is** as-received.

B. All other coatings. For all other coatings, the weight fraction of VOC in the coating *[shall be]* **is** as-applied.

5. Weight fraction of solids in the coating, W_S.

6. Weight fraction of water in the coating, W_W.

(C) Other Test Methods and Calculations.

1. Calculating the VOC content of the coating.

A. The VOC content of the coating as-applied, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), shall be determined using Equation (1) as follows:

$$B = \frac{D_C \times W_O}{1 - \left(\frac{D_C \times W_W}{8.33}\right) - \left(\sum_{j=1}^{m} \frac{D_C \times W_{E_j}}{D_{E_j}}\right)} \quad (1)$$

Where:
B = VOC content of the coating as-applied, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds);
D_C = density of coating as-applied, expressed as pounds per gallon;
W_O = weight fraction of regulated VOC in the coating, as-applied. This value does not include the weight fraction of water or exempt compounds;
W_W = weight fraction of water in the coating, as-applied;
W_E = weight fraction of exempt compounds in the coating, as-applied;
D_E = density of each exempt compound, expressed as pounds per gallon;
m = number of exempt compounds in the coating; and
8.33 = density of water, expressed as pounds per gallon.

B. The VOC content of the coating as-applied, expressed as pounds of VOC per gallon of coating solids, shall be determined using Equation (2) as follows:

$$B_S = \frac{D_C \times W_O}{V_S} \quad (2)$$

Where:
B_S = VOC content of the coating as-applied, expressed as pounds of VOC per gallon of coating solids;
D_C = density of coating as-applied, expressed as pounds per gallon;
W_O = weight fraction of regulated VOC in the coating, as applied. This value does not include the weight fraction of water or exempt compounds; and
V_S = volume fraction of solids in the coating, as-applied.

C. The VOC content of the coating as-applied, expressed as pounds of VOC per pound of coating solids, shall be determined

using Equation (3) as follows:

$$B_{MWS} = \frac{D_C \times W_O}{D_C \times W_S} \qquad (3)$$

Where:
B_{MWS} = VOC content of the coating as-applied, expressed as pounds of VOC per pound of coating solids;
D_C = density of coating as-applied, expressed as pounds per gallon;
W_O = weight fraction of regulated VOC in the coating, as applied. This value does not include the weight fraction of water or exempt compounds; and
W_S = weight fraction of solids in the coating, as-applied.

2. Equivalent emission limits. Emission limits expressed as pounds of VOC per gallon of coating (minus water and exempt compounds) shall be converted to an equivalent emission limit expressed as pounds of VOC per gallon of coating solids using Equation (4) as follows:

$$L_S = \frac{L}{\left(1 - \frac{L}{7.36}\right)} \qquad (4)$$

Where:
L_S = emission limit expressed as pounds of VOC per gallon of coating solids;
L = emission limit expressed as pounds of VOC per gallon of coating (minus water and exempt compounds); and
7.36 = average density of solvents, in pounds per gallon, used to originally establish the emission limits.

3. Weighted averaging.

A. The daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), shall be calculated using Equation (5) as follows:

$$DAVG_{VW} = \frac{\sum_{i=1}^{n} (A_i \times B_i)}{C} \qquad (5)$$

Where:
$DAVG_{VW}$ = daily volume-weighted average VOC content, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds);
A = daily gallons of each coating used (minus water and exempt compounds) in a surface coating unit;
B = VOC content of the coating as-applied, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds). This is determined by subparagraph (5)(C)1.A. of this rule;
C = total daily gallons of coatings used (minus water and exempt compounds) in a surface coating unit; and
n = number of coatings used in a surface coating unit.

B. The daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating solids, shall be calculated using Equation (6) as follows:

$$DAVG_{VWS} = \frac{\sum_{i=1}^{n} (A_{S_i} \times B_{S_i})}{C_S} \qquad (6)$$

Where:
$DAVG_{VWS}$ = daily volume-weighted average VOC content, expressed as pounds of VOC per gallon of coating solids;
A_S = daily gallons of coating solids for each coating used in a surface coating unit;
B_S = VOC content of the coating as-applied, expressed as pounds of VOC per gallon of coating solids. This is determined by subparagraph (5)(C)1.B. of this rule;
C_S = total daily gallons of coatings solids used in a surface coating unit; and
n = number of coatings used in a surface coating unit.

C. The daily mass-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per pound of coating solids, shall be calculated using Equation (7) as follows:

$$DAVG_{MWS} = \frac{\sum_{i=1}^{n} (A_{MWS_i} \times B_{MWS_i})}{C_{MWS}} \qquad (7)$$

Where:
$DAVG_{MWS}$ = daily mass-weighted average VOC content, expressed as pounds of VOC per pound of coating solids;
A_{MWS} = daily pounds of coating solids for each coating used in a surface coating unit;
B_{MWS} = VOC content of the coating as-applied, expressed as pounds of VOC per pound of coating solids. This is determined by subparagraph (5)(C)1.C. of this rule;
C_{MWS} = total daily pounds of coatings solids used in a surface coating unit; and
n = number of coatings used in a surface coating unit.

D. The monthly volume-weighted average VOC emission rate of an electrodeposition primer, expressed as pounds of VOC per gallon of coating solids deposited, shall be determined using Equation (8) as follows:

$$MAVG_{VWS} = \left[\frac{\sum_{i=1}^{n} L_{C_i} D_{C_i} W_{O_i} + \sum_{j=1}^{m} L_{D_j} D_{D_j}}{\sum_{i=1}^{n} L_{C_i} V_{S_i}} \right] \times [1 - E/100] \qquad (8)$$

Where:
$MAVG_{VWS}$ = monthly volume-weighted average VOC emission rate of the electrodeposition primer, expressed as pounds of VOC per gallon of coating solids deposited;
L_C = monthly volume of each coating consumed, as-received, expressed as gallons;
D_C = density of each coating as-received, expressed as pounds per gallon;
W_O = weight fraction of VOC in each coating, as received;
L_D = monthly volume of each type of VOC dilution solvent added to the coating, expressed as gallons;
D_D = density of each type of VOC dilution solvent added to the coating, expressed as pounds per gallon;
V_S = volume fraction of solids in each coating as received, expressed as gallons of solids per gallon of coating;
E = overall control system efficiency;
n = number of coatings used; and
m = number of VOC dilution solvents used.

E. The monthly volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), shall be calculated using Equation (9) as follows:

$$MAVG_{VW} = \frac{\sum_{i=1}^{n} (A_i \times B_i)}{C} \qquad (9)$$

Where:
$MAVG_{VW}$ = monthly volume-weighted average VOC content as-applied, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds);
A = monthly gallons of each coating used (minus water and exempt compounds) in a surface coating unit;
B = VOC content of the coating as-applied, expressed as pounds of VOC per gallon of coating (minus water and exempt compounds), as delivered to the coating applicator. This is determined by subparagraph (5)(C)1.A. of this rule;
C = total monthly gallons of coatings used (minus water and exempt compounds) in a surface coating unit; and
n = number of coatings used in a surface coating unit.

4. The required control system efficiency shall be determined using Equation (10) as follows:

$$R = \left[\frac{(DAVG_{VWS} - L_S)}{DAVG_{VWS}}\right] \times 100 \qquad (10)$$

Where:
R = required control system efficiency;
$DAVG_{VWS}$ = daily volume-weighted average VOC content of all coatings used in a surface coating unit, expressed as pounds of VOC per gallon of coating solids, per subparagraph (5)(C)3.B. of this rule; and
L_S = emission limits expressed as pounds of VOC per gallon of coating solids, per paragraph (5)(C)2. of this rule.

*AUTHORITY: section 643.050, RSMo [Supp. 2010] **2016**. Original rule filed Dec. 15, 1978, effective July 12, 1979. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 27, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., September 27, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., October 4, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED AMENDMENT

10 CSR 10-6.045 Open Burning Requirements. The commission proposes to amend the purpose and sections (1) through (5). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This amendment clarifies the conditions and restrictions related to open burning. Facilities and operations that under the current rule are required to obtain an open burning permit may now open burn as long as they comply with the conditions and restrictions outlined in the rule. This amendment also adds back definitions specific to this rule. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

PURPOSE: This rule sets forth the conditions and restrictions for the open burning of refuse and combustible materials throughout Missouri [and defines when an open burning permit is required]. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are the various citizen petitions concerning open burning received in 2005 and meeting minutes for 2005/2006 open burning workgroup meetings.

(1) Applicability. This rule applies to all open burning throughout the state of Missouri *[with additional conditions applicable to the metropolitan areas of Kansas City, Springfield, St. Joseph and St. Louis as found in section (3) of this rule]*.

(2) Definitions.

(A) *[Untreated wood—Lumber and other wooden materials that have not been chemically treated for resistance to moisture, fire, fungi, insects, and other pests, or has not otherwise been treated or manufactured with chemicals, or that does not contain adhesives or resins. Untreated wood does not include plywood, particleboard, chipboard, and wood with other than insignificant quantities of paint, coating or finish.]* **Air curtain incinerator—A device that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs.**

(B) Household waste—Garbage, trash, and other discarded materials that are generated from residential activities in a household.

(C) Open burning—The burning of materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

(D) Salvage Operation—Any business, trade, industry, or other activity conducted in whole or in part for the purpose of salvaging or reclaiming any product or material.

(E) Trade waste—Waste materials from any business, institution, or industry.

(F) Untreated wood—Wood that has not been chemically preserved, painted, stained, or composited. Untreated wood does not include plywood, particleboard, chipboard, and wood with other than minimal quantities of paint, coating, or finish.

(G) Vegetative waste—Tree trunks, tree limbs, tree trimmings, vegetation, and yard waste.

(H) Wood processing facility—A facility that uses logs or dimensional lumber to be cut and used in the manufacturing process.

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

(3) General Provisions. *[No person may conduct, cause, permit, or allow the disposal of tires, petroleum-based products,*

trade waste, construction or demolition waste, salvage operation waste, or asbestos containing materials by open burning, except as permitted below. Nothing in this rule may be construed as to allow open burning which causes or constitutes a public health hazard, nuisance, a hazard to vehicular or air traffic, nor which violates any other rule or statute.] **Open burning that causes or constitutes a public health hazard, a hazard to vehicular or air traffic, is composed of material listed in subsection (3)(A) of this rule, or violates any other rule or statute, is not allowed unless specified otherwise. The staff director reserves the right to prohibit or restrict open burning where burning is considered detrimental to air quality standards.**

[(A) The following types of open burning are allowed by the department when not prohibited by other laws, regulations, or ordinances:

1. Recreational and ceremonial fires. These fires shall be comprised of vegetative woody materials or untreated wood products only;

2. Noncommercial preparation of food, such as by barbecuing;

3. Burning of household or domestic refuse. Burning of household or domestic refuse is limited to open burning on a residential premises having not more than four (4) dwelling units, provided that the refuse originates on the same premises, with the following exceptions:

A. Kansas City metropolitan area. The open burning of household refuse must take place in an area zoned for agricultural purposes and outside that portion of the metropolitan area surrounded by the corporate limits of Kansas City and every contiguous municipality;

B. Springfield-Greene County area. The open burning of household refuse must take place outside the corporate limits of Springfield and only within areas zoned A-1, Agricultural District;

C. St. Joseph area. The open burning of household refuse must take place within an area zoned for agricultural purposes and outside that portion of the metropolitan area surrounded by the corporate limits of St. Joseph; and

D. St. Louis metropolitan area. The open burning of household refuse is prohibited;

4. Land clearing of vegetative debris, provided all burning occurs—

A. Outside of any incorporated area or municipality and outside of the Kansas City metropolitan area, Springfield-Greene County area, and the St. Louis metropolitan area;

B. At least two hundred (200) yards from the nearest occupied structure; and

C. Land clearing of vegetative debris that does not meet the conditions of subparagraphs (3)(A)4.A. and (3)(A)4.B. of this rule may be open burned provided an open burning permit is obtained as found in subsection (3)(B) of this rule;

5. Yard waste, with the following exceptions:

A. Kansas City metropolitan area. The open burning of trees, tree leaves, brush, or any other type of vegetation shall require an open burning permit;

B. Springfield-Greene County area. The City of Springfield requires an open burning permit for the open burning of trees, brush, or any other type of vegetation. The City of Springfield prohibits the open burning of tree leaves;

C. St. Joseph area. Within the corporate limits of St. Joseph, the open burning of trees, tree leaves, brush, or any other type of vegetation grown on a residential property is allowed during the following calendar periods and time-of-day restrictions:

(I) A three (3)-week period within the period commencing the first day of March through April 30 and continuing for twenty-one (21) consecutive calendar days;

(II) A three (3)-week period within the period commencing the first day of October through November 30 and continuing for twenty-one (21) consecutive calendar days;

(III) The burning shall take place only between the daytime hours of 10:00 a.m. and 3:30 p.m.; and

(IV) In each instance, the twenty-one (21)-day burning period shall be determined by the director of Public Health and Welfare of the City of St. Joseph for the region in which the City of St. Joseph is located provided, however, the burning period first shall receive the approval of the department director; and

D. St. Louis metropolitan area. The open burning of trees, tree leaves, brush, or any other type of vegetation is limited to the period beginning September 16 and ending April 14 of each calendar year and limited to a total base area not to exceed sixteen (16) square feet. Any open burning shall be conducted only between the hours of 10:00 a.m. and 4:00 p.m. and is limited to areas outside of incorporated municipalities;

6. Untreated wood waste materials. Untreated wood waste materials resulting from wood processing facilities in existence as of March 25, 1976, which produce less than eight thousand (8,000) board feet or equivalent per day may be open burned if at least two hundred (200) yards from the nearest occupied structure. Untreated wood waste materials resulting from wood processing plants which relocate or from new wood processing facilities which produce less than eight thousand (8,000) board feet, or equivalent per day, may be open burned if at least one (1) mile outside the city limits of any incorporated area or municipality and at least two hundred (200) yards from the nearest occupied structure;

7. Fire training exercises. Fires set for the purposes of training fire fighters and industrial employees in fire fighting methods provided that—

A. The training is conducted in accordance with National Fire Protection Association standards, NFPA 1403, Standard on Live Fire Training Evolutions (2002 Edition), for fire fighters and NFPA 600, Standard on Industrial Fire Brigades (2005 Edition), for industrial employees. The provisions of NFPA 1403 and 600 shall apply and are hereby incorporated by reference in this rule, as published by the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. This rule does not incorporate any subsequent amendments or additions. These exercises include, but are not limited to, liquefied gas propane fueled simulators, flashover simulators, and stationary live burn towers; and

B. Acquired structures to be used for training exercises are subject to the requirements of 10 CSR 10-6.080, subsection (3)(M), National Emission Standard for Asbestos. These requirements include, but are not limited to, inspection of and notification to the director. All petroleum-based products are to be removed from any acquired structure that is to be burned as part of a training exercise;

8. Agricultural burning. Fires set in connection with agricultural or forestry operations related to the growing or harvesting of crops with the following exception. In the St. Louis metropolitan area, if open burning for pest or weed control or crop production on existing cropland between April 15 and September 15, the person must notify the director in writing at least forty-eight (48) hours prior to commencement of burning. The department reserves the right to delay the burning on days when the ambient ozone level is forecasted to be high;

9. Natural resource and land management. Prescribed fires set for natural resource management purposes; and

10. The open burning of certain trade wastes may be

permitted only when it can be shown that a situation exists where open burning is in the best interest of the general public, or when it can be shown that open burning is the safest and most feasible method of disposal. Economic considerations shall not be the primary determinant of feasibility. Any person intending to engage in open burning shall file an application with and receive written approval from the staff director. The application shall contain evidence that the proposed open burning has been approved by the fire control authority which has jurisdiction.

(B) The following types of materials may be open burned provided an open burning permit is obtained from the director. The permit will specify the conditions and provisions of all open burning. The permit may be revoked if the owner or operator fails to comply with the conditions or any provisions of the permit—

1. Burning of untreated wood waste; and

2. Burning of tree trunks, tree limbs, and vegetation at commercial land clearing operations that occur within an incorporated area or municipality or where the proposed open burning will occur within two hundred (200) yards of an occupied structure or when the open burning is located anywhere in the Kansas City metropolitan area, Springfield-Greene County area, or the St. Louis metropolitan area.

(C) Commercial tree trimming operations and municipal utility tree trimming operations shall submit a written request to the director for an annually renewable open burning permit. The permit will specify the conditions and provisions of all open burning. The permit may be revoked if the owner or operator fails to comply with the conditions or any provisions of the permit.

(D) Facility owners or operators may be issued an annually renewable open burning permit for open burning provided that an air curtain destructor or incinerator is utilized and only tree trunks, tree limbs, vegetation, or untreated wood waste are burned. Open burning shall occur at least two hundred (200) yards from the nearest occupied structure unless the owner or operator of the occupied structure provides a written waiver of this requirement. Any waiver shall accompany the open burning permit application. The permit may be revoked if the owner or operator fails to comply with the provisions or any condition of the permit.

(E) In a nonattainment area, as defined in 10 CSR 10-6.020, paragraph (2)(N)5., the staff director reserves the right to deny, revoke, or suspend a permit under this section when conditions exist where burning would be considered detrimental to air quality standards.]

(A) The following materials must not be disposed of by open burning:

1. Petroleum-based materials, including but not limited to, tires, asphalt roofing material, carpet, and used oils;

2. Asbestos containing materials;

3. Trade waste, except untreated wood;

4. Construction or demolition waste, except untreated wood;

5. Salvage operation waste;

6. Household waste on or from properties with five (5) or more residential units, such as mobile home parks or multi-family dwellings;

7. Household waste originated from another's property; or

8. Durable goods.

(B) The open burning of vegetative waste for the following activities must comply with the conditions in subsection (3)(E) of this rule:

1. Commercial land clearing operations when the burning is located inside the city limits or less than two hundred (200) yards from the nearest occupied structure; and

2. Commercial and noncommercial collection operations where vegetative waste originates off-site. Collection operations that burn more than eighty (80) cubic yards of vegetative waste per week must use an Air Curtain Incinerator and—

A. Meet the conditions of subsections (3)(F) and (3)(G) of this rule;

B. Submit a construction notification, record opacity test results, and make records available for review as outlined in section (4) of this rule; and

C. Measure visible emissions as outlined in section (5) of this rule.

(C) Wood processing facilities producing more than eight thousand (8,000) board feet per day or that are located less than one (1) mile outside the city limits of an incorporated area that open burn untreated wood waste must comply with the conditions in subsection (3)(E) of this rule. Wood processing facilities producing more than eight thousand (8,000) board feet per day that wish to burn more than eighty (80) cubic yards of untreated wood waste per week must use an Air Curtain Incinerator and—

1. Meet the conditions of subsections (3)(F) and (3)(G) of this rule;

2. Submit a construction notification, record opacity test results, and make records available for review as outlined in section (4) of this rule; and

3. Measure visible emissions as outlined in section (5) of this rule.

(D) The open burning of untreated wood waste generated from trade waste or construction and demolition waste must comply with the conditions in subsection (3)(E) of this rule. Any person who burns more than eighty (80) cubic yards of this untreated wood waste per week at a single location must use an Air Curtain Incinerator and—

1. Meet the conditions of subsections (3)(F) and (3)(G) of this rule;

2. Submit a construction notification, record opacity test results, and make records available for review as outlined in section (4) of this rule; and

3. Measure visible emissions as outlined in section (5) of this rule.

(E) Conditions for open burning of vegetative waste or untreated wood from activities described in subsections (3)(B), (3)(C), and (3)(D) of this rule:

1. Burning is to take place only between sunrise and sunset;

2. Burning is to occur at least two hundred (200) yards from the nearest structure not owned by the party conducting the burning, unless an Air Curtain Incinerator is used and—

A. Waivers are obtained from the owner or occupant of the structure; or

B. The local fire department provides approval in those circumstances where the distance cannot be maintained;

3. Burning is to be supervised at all times;

4. The local fire control or other authority with jurisdiction shall be notified of the burning activities prior to initiation;

5. An Air Curtain Incinerator shall be utilized in an ozone non-attainment area from April 15 to September 15; and

6. Burning is not allowed during an ozone alert day in an ozone non-attainment area or ozone maintenance area.

(F) Air curtain incinerator operation.

1. An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

2. Owners and operators may only burn the following in their Air Curtain Incinerator:

A. One hundred percent (100%) wood waste;

B. One hundred percent (100%) percent clean lumber;

and

C. One hundred percent (100%) percent mixture of only wood waste, clean lumber, and/or yard waste.

3. Air curtain incinerator operation must take place at least fifty (50) yards from the nearest occupied structure not owned by the party that owns or operates the air curtain incinerator.

(G) Air curtain incinerators must meet the following emission limitations:

1. Maintain opacity to less than or equal to ten percent (10%) opacity, except during the startup period that is within the first thirty (30) minutes of operation;

2. Maintain opacity to less than or equal to thirty-five percent (35%) opacity during the startup period that is within the first thirty (30) minutes of operation; and

3. The opacity testing must consist of a minimum of one hour of opacity values, consisting of ten (10) six- (6-) minute average opacity values.

(H) The open burning of certain trade wastes, such as explosive or hazardous material, is allowed only when it can be shown that a situation exists where open burning is in the best interest of the general public, or when it can be shown that open burning is the safest and most feasible method of disposal. Economic considerations are not to be the primary determinant of feasibility. Any person intending to engage in open burning of these trade wastes is to contact the Department of Natural Resources and receive written approval from the staff director. The person submitting the information is to verify that the proposed open burning has been approved by the fire control authority which has jurisdiction.

(4) Reporting and Record Keeping. *[New Source Performance Standard (NSPS) 40 CFR part 60 Subpart CCCC establishes certain requirements for air curtain destructors or incinerators that burn wood trade waste. These requirements are established in 40 CFR 60.2245–60.2260. The provisions of 40 CFR part 60 Subpart CCCC promulgated as of September 22, 2005 shall apply and are hereby incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions. To comply with NSPS 40 CFR 60.2245–60.2260, sources must conduct an annual Method 9 test. A copy of the annual Method 9 test results shall be submitted to the director.]* **Owners and operators of Air Curtain Incinerators must—**

(A) Prior to commencing construction of a stationary air curtain incinerator, submit a notification to the staff director with the following information:

1. Notification of the intent to construct and operate an air curtain incinerator;

2. The planned initial startup date; and

3. Types of materials that will be burned in the air curtain incinerator;

(B) Keep the notification required in subsection (4)(A) of this rule, and records of results of all initial and annual opacity tests required in section (5) of this rule onsite in either paper copy or electronic format, unless the staff director approves another format, for at least five (5) years;

(C) Make all records available for submittal to the staff director or for an inspector's onsite review; and

(D) Submit the results of the initial opacity test required in section (5) of this rule no later than sixty (60) days following the initial test. Owners and operators must submit the results of the annual opacity test required in section (5) of this rule within sixty (60) days of conducting the test. The opacity testing must consist of a minimum of one (1) hour of opacity values, consisting of ten (10) six- (6-) minute average opacity values. Paper and electronic submittals are acceptable.

(5) Test Methods. *[The visible emissions from air pollution sources shall be evaluated as specified by 40 CFR part 60, Appendix A–Test Methods, Method 9–Visual Determination of the Opacity of Emissions from Stationary Sources. The provisions of 40 CFR part 60, Appendix A, Method 9 promulgated as of December 23, 1971 is incorporated by reference in this rule, as published by the U.S. Government Printing Office, 732 N Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.]* **Visible emissions from Air Curtain Incinerators shall be evaluated within sixty (60) days of the initial startup date and annually thereafter using Method 9 of Appendix A-4 to 40 CFR 60 as specified in 10 CSR 10-6.030(22).**

*AUTHORITY: section 643.050, RSMo [2000] **2016**. Original rule filed June 7, 2007, effective Jan. 30, 2008. Amended: Filed Dec. 29, 2008, effective Sept. 30, 2009. Amended: Filed June 21, 2018.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., September 27, 2018. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a statement of their views until 5:00 p.m., October 4, 2018. Send online comments via the proposed rules web page www.dnr.mo.gov/proposed-rules, email comments to apcprulespn@dnr.mo.gov, or written comments to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176.

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

PROPOSED AMENDMENT

10 CSR 10-6.060 Construction Permits Required. The commission proposes to amend sections (1) through (12). If the commission adopts this rule action, the department intends to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Proposed Rules website www.dnr.mo.gov/proposed-rules.

PURPOSE: This rule amendment makes significant changes to the entire construction permit rule to clarify requirements and procedures improving user friendliness and regulatory certainty. The rulemaking also adds a voluntary permit option and a general permit option, updates incorporations by reference, removes unnecessary uses of restrictive words in compliance with the Executive Order 17-03, and removes a significant amount of duplicative language. The

evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is Executive Order 17-03 Red Tape Reduction Review and related comments.

*PURPOSE: This rule defines sources [which are] required to obtain permits to construct. It establishes: requirements to be met prior to construction or modification of any [of these] sources[.]; **a procedure for a source to voluntarily obtain a permit for implementing practically enforceable conditions; a procedure for the permitting authority to issue general permits;** [This rule also establishes] permit fees; and public notice requirements for certain [sources and incorporates a means for unifying the processing of construction and operating permit issuance] **permits**.*

(1) Applicability.

[(A) Definitions. Definitions of certain terms used in this rule may be found in paragraph (b) of 40 CFR 52.21 which is incorporated by reference in subsection (8)(A) of this rule, except that—

1. Any provisions of 40 CFR 52.21(b) that are stayed shall not apply;

2. Solely for the purposes of paragraph (1)(A)2. and section (7) of this rule, the following definitions shall be used in place of the definitions of the same terms specified elsewhere in this subsection:

A. Major stationary source is defined in 40 CFR 51.165(a)(1)(iv), promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions. The term major, as used in this definition, shall be major for the nonattainment pollutant;

B. Major modification is defined in 40 CFR 51.165(a)(1)(v), promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, except that any incorporated provisions that are stayed shall not apply. This rule does not incorporate any subsequent amendments or additions. The term major, as used in this definition, shall be major for the nonattainment pollutant;

C. Net emissions increase is defined in 40 CFR 51.165(a)(1)(vi), promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, except that the term paragraph (a)(1)(xii)(B) shall be 40 CFR 52.21(b)(21)(ii). This rule does not incorporate any subsequent amendments or additions; and

D. Significant is defined in 40 CFR 51.165(a)(1)(x), promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

3. Solely for the purposes of section (9) of this rule, the following definitions shall be used in addition to definitions specified elsewhere in this subsection:

A. Construct a major source—

(I) Fabricate, erect, or install, at any greenfield site, a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit ten (10) tons per year of any hazardous air pollutant (HAP) or twenty-five (25) tons per year of any combination of HAPs; or

(II) Fabricate, erect, or install, at any developed site, a new process or production unit which in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs;

B. Greenfield site—A contiguous area under common control that is an undeveloped site;

C. Process or production—Any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one (1) process or production unit;

D. Reconstruct a major source—Replace components at an existing process or production unit where the replacement of components in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs, whenever—

(I) The fixed capital cost of the new components exceeds fifty percent (50%) of the fixed capital cost that would be required to construct a comparable process or production unit; and

(II) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this section;

E. Research and development activities—Activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically-trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner;

F. Similar source—A stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology; and

G. Definitions for certain terms, other than those defined in subparagraphs (1)(A)3.A. through F. of this rule, may be found in 40 CFR 63.41, promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

4. Nonattainment pollutant—Each and every pollutant for which the location of the source is in an area designated to be in nonattainment of a National Ambient Air Quality Standard (NAAQS) under section 107(d)(1)(A)(i) of the Act. Any constituent or precursor of a nonattainment pollutant shall be a nonattainment pollutant, provided that the constituent or precursor pollutant may only be regulated under this rule as part of regulation of the corresponding NAAQS pollutant. Both volatile organic compounds (VOC) and nitrogen oxides (NO_x) shall be nonattainment pollutants for a source located in an area designated nonattainment for ozone;

5. The provisions of subsection (8)(B) of this rule regarding the term administrator shall apply; and

6. Definitions for certain terms used in this rule, other than those defined elsewhere in this subsection, may be found in 10 CSR 10-6.020.

(B) Covered Installations/Changes. This rule shall apply to installations throughout Missouri with the potential to emit any pollutant in an amount equal to or greater than the de minimis levels. This rule also shall apply to changes at installations which emit less than the de minimis levels where the

construction or modification itself would be subject to section (6), (7), (8), or (9) of this rule. This rule shall apply to all incinerators, unless permitted under rule 10 CSR 10-6.062.

(C) Construction/Operation Prohibited. No owner or operator shall commence construction or modification of any installation subject to this rule, begin operation after that construction or modification, or begin operation of any installation which has been shut down longer than five (5) years without first obtaining a permit from the permitting authority under this rule. For sources not subject to review under sections (7), (8), or (9) of this rule, construction may be commenced if authorized by the director. A request for authorization must include: a signed waiver of any state liability; a complete list of the activities to be undertaken; and, the applicant's full acceptance and knowledge of all liability associated with the possibility of denial of the permit application. A request will not be granted unless an application for permit approval under this rule has been filed. The waiver is not available to sources seeking federally enforceable permit restrictions to avoid review under sections (7)–(9) of this rule.

(D) Exempt Emissions Units. This rule does not apply to the construction or modification of installations that are exempted or excluded by 10 CSR 10-6.061 or are permitted under rule 10 CSR 10-6.062.]

(A) Construction Permit Required. The owner or operator of a new or existing installation throughout Missouri that meets any of the following provisions must obtain a permit:

1. Has construction of a new installation that results in a potential to emit greater than *de minimis* threshold levels;

2. Has new construction and/or modification that results in a potential to emit greater than *de minimis* threshold levels at an existing installation with potential to emit less than the *de minimis* threshold levels;

3. Has new construction and/or modification that results in an emission increase at an existing installation whose potential to emit exceeds *de minimis* threshold levels or is less than *de minimis* threshold levels due to federally enforceable requirements in a permit;

4. The new construction and/or modification is a major modification; or

5. Has construction of an incinerator.

(B) Voluntary Permit. An installation in Missouri may obtain a permit under this rule in order to acquire voluntary, practically enforceable limits.

(C) Exempt Construction or Modification. No construction permit is necessary for construction or modification of installations when—

1. The entire construction or modification is exempt or excluded by 10 CSR 10-6.061;

2. Construction or modification is permitted under 10 CSR 10-6.062; or

3. Original construction or modification occurred prior to May 13, 1982. Any construction or modification that occurs after this date is not exempt.

(D) Construction and Operation Prohibited Prior to Permitting. Owners or Operators shall obtain a permit from the permitting authority, except as allowed under subsection (1)(D) of this rule, prior to any of the following activities:

1. The start of actual construction or modification of any installation subject to this rule;

2. Operation after construction or modification; or

3. Operation of any emission unit that has been permanently shutdown.

(E) Construction Allowed Prior to Permitting. A Pre-Construction Waiver may be obtained with authorization of the director by sources not subject to review under section (7), (8), or (9) of this rule, or sources seeking federally enforceable permit restrictions to avoid review under section (7), (8), or (9) of this rule.

1. A complete request for authorization includes:

A. A signed waiver of any state liability;

B. A complete list of the activities to be undertaken; and

C. The applicant's full acceptance and knowledge of all liability associated with the possibility of denial of the permit application.

2. A request will not be granted unless an application for permit approval under this rule has been filed or if the start of actual construction has occurred.

[(2) Unified Review. When the construction or modification and operation of any installation requires a construction permit under this rule, and an operating permit or its amendment, under 10 CSR 10-6.065, the installation shall receive a unified construction and operating permit, or its amendment, and a unified review, hearing and approval process, unless the applicant requests in writing that the application for a construction and operating permit, or its amendment, be reviewed separately. Under this unified review process, the applicant shall submit all the applications, forms, and other information required by the permitting authority.

(A) Review of Applications. The permitting authority shall complete any unified review within one hundred eighty-four (184) days, as provided under the procedures of this rule and 10 CSR 10-6.065 Operating Permits Required.

(B) Issuance of Permits. As soon as the unified review process is completed, if the applicant complies with all applicable requirements under this rule and 10 CSR 10-6.065, the construction permit and the operating permit, or its amendment, shall be issued to the applicant and the applicant may commence construction. The operating permit shall be retained by the permitting authority until validated pursuant to this section.

(C) Validation of Operating Permits. Within one hundred and eighty (180) days after commencing operation, the holder of an operating permit, or its amendment, issued by the unified review process shall submit to the permitting authority all information required by the permitting authority to demonstrate compliance with the terms and conditions of the issued operating permit, or its amendment. The permittee shall also provide information identifying any applicable requirements which became applicable subsequent to issuance of the operating permit. Within thirty (30) days after the applicant's request for validation, the permitting authority will take action denying or approving validation of the issued operating permit, or its amendment. If the permittee demonstrates compliance with both the construction and operating permits, or its amendment, the permitting authority shall validate the operating permit, or its amendment, and forward it to the permittee. No part 70 permit will be validated unless—

1. At the time of validation, the permitting authority certifies that the issued permit contains all applicable requirements; or

2. The procedures for permit renewal in 10 CSR 10-6.065(6)(E)3. have occurred prior to validation to insure the inclusion of any new applicable requirements to which the part 70 permit is subject.]

(2) Definitions.

(A) Definitions of general terms used in this rule, other than those defined elsewhere in this section, may be found in 10 CSR 10-6.020.

(B) Definitions of certain terms used in this rule may be found in paragraph (b) of 40 CFR 52.21, which is incorporated by reference in subsection (8)(A) of this rule, except that any provisions

of 40 CFR 52.21(b) that are stayed shall not apply.

(C) Alternate site analysis—An analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source that demonstrates that benefits of the proposed installation significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(D) Ambient air increments—The limited increases of pollutant concentrations in ambient air over the baseline concentration.

(E) Emission(s)—The release or discharge, whether directly or indirectly, into the atmosphere of one (1) or more air contaminants listed in subsection (3)(A) of 10 CSR 10-6.020.

(F) Good engineering practice (GEP) stack height—The greater of—

1. Sixty-five meters (65 m) measured from the ground-level elevation at the base of the stack;

2. For stacks on which construction commenced on or before January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR 51 and 52,

$$Hg = 2.5H$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation; and for all other stacks,

$$Hg = H + 1.5L$$

Where:
Hg = GEP stack height, measured from the ground-level elevation at the base of the stack;
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack; and
L = lesser dimension, height, or projected width of the nearby structure(s). Provided that the director may require the use of a field study or fluid model to verify GEP stack height for the installation; or

3. The height demonstrated by a fluid model or field study approved by the director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(G) Incinerator—Any article, machine, equipment, contrivance, structure, or part of a structure used to burn refuse or to process refuse material by burning other than by open burning.

(H) Modification—Any physical change to, or change in method of operation of, a source operation or attendant air pollution control equipment which would cause an increase in potential emissions of any air pollutant emitted by the source operation.

(I) Nonattainment pollutant—Each and every pollutant for which the location of the source is in an area designated to be in nonattainment of a National Ambient Air Quality Standard (NAAQS) under section 107(d)(1)(A)(i) of the Act. Any constituent or precursor of a nonattainment pollutant shall be a nonattainment pollutant, provided that the constituent or precursor pollutant may only be regulated under this rule as part of regulation of the corresponding NAAQS pollutant. Both volatile organic compounds (VOC) and nitrogen oxides (NO_x) shall be nonattainment pollutants for a source located in an area designated nonattainment for ozone.

(J) Offset—A decrease in actual emissions from a source operation or installation that is greater than the amount of emissions anticipated from a modification or construction of a source operation or installation. The decrease must have substantially similar environmental and health effects on the impacted area. Any ratio of decrease to increase greater than one-to-one (1:1) constitutes offset. The exceptions to this are ozone nonattainment areas where volatile organic compound and oxides of nitrogen emissions will require an offset ratio of actual emission reduction to new emissions according to the following schedule:

1. marginal area = 1.1:1;
2. moderate area = 1.15:1;
3. serious area = 1.2:1;
4. severe area = 1.3:1; and
5. extreme area = 1.5:1.

(K) Permanently shutdown—The permanent cessation of operation of any air pollution control equipment or process equipment, not to be placed back into service or have a start-up.

(L) Pilot trials—A study, project or experiment conducted in order to evaluate feasibility, time, cost, adverse events, and improve upon the design prior to performance on a larger scale.

(M) Pollutant—An air contaminant listed in subsection (3)(A) of 10 CSR 10-6.020.

(N) Portable equipment—Any equipment that is designed and maintained to be movable, primarily for use in noncontinuous operations. Portable equipment includes rock crushers, asphaltic concrete plants, and concrete batching plants.

(O) Refuse—Garbage, rubbish, trade wastes, leaves, salvageable material, agricultural wastes, or other wastes.

(P) Regulated air pollutant—All air pollutants or precursors for which any standard has been promulgated.

(Q) Risk assessment levels (RALs)—Ambient concentrations of air toxics that are not expected to produce adverse cancer and non-cancer health effects during a defined period of exposure. The RALs are based upon animal toxicity studies, human clinical studies, and human epidemiology studies that account for exposure to sensitive populations such as the elderly, pregnant women, children, and those having respiratory illness such as asthma.

(R) Screening model Action Levels (SMALs)—The emission threshold of an individual hazardous air pollutant (HAP) or HAP group that triggers the need for an air quality analysis of the individual HAP.

(S) Shutdown—The cessation of operation of any air pollution control equipment or process equipment.

(T) Shutdown, permanent—See permanent shutdown.

(U) Start-up—The setting into operation of any air pollution control equipment or process equipment, except the routine phasing in of process equipment.

(V) Temporary installation—An installation that operates or emits pollutants less than two (2) years.

(3) *[Temporary Installations and Pilot Plants Permits. The permitting authority may exempt temporary installations and pilot plants having a potential to emit under one hundred (100) tons per year of each pollutant from any of the requirements of this rule, provided that these exemptions are requested in writing prior to the start of construction. These exemptions shall be granted only when the attainment or maintenance of ambient air quality standards is not threatened, when there will be no significant impact on any Class I area, and when the imposition of requirements of this rule would be unreasonable.]* **Application and Permit Procedures.**

(A) Preapplication Meeting.

1. Prior to submittal of a permit application, the applicant may request a preapplication meeting with the permitting authority to discuss the nature of and apparent requirements for the forthcoming permit application.

2. A preapplication meeting is required thirty (30) days prior to application submittal of a section (7), (8) or (9) permit application.

(B) Permitting Authority's Responsibilities Regarding the Permit

Application.

1. The permitting authority provides a standard application package for permit applicants.

2. The permitting authority requires the following information in the standard application package and supplemental material:

A. The applicant's company name and address (or plant name and address if different from the company name), the owner's name and state registered agent, and the telephone number and name of the plant site manager or other contact person;

B. Site information including locational data, equipment layout, and plant layout;

C. A description of the installation's processes and products and the four (4)-digit Standard Industrial Classification Code; and

D. The following emissions-related information:

(I) A description of the new construction or modification occurring at the installation;

(II) Identification and description of all emissions units with emissions that are being added or modified as a result of the construction or modification described in part (3)(B)2.D.(I) of this rule;

(III) A description of all emissions of regulated air pollutants emitted from each emission unit identified in part (3)(B)2.D.(II) of this rule;

(IV) The potential to emit of each pollutant emitted per emission unit including, but not limited to, maximum hourly design rates, emission factors, or other information that enables the permitting authority to verify such rates, and in such terms as necessary to establish compliance with applicable regulations;

(V) Information necessary to determine or regulate emissions including, but not limited to, fuels, fuel use, raw materials, production rates, and operating schedules;

(VI) Identification and description of air pollution capture and control equipment with capture and control efficiencies and the pollutants that are being controlled for each respective capture and control device;

(VII) Identification and description of compliance monitoring devices or activities; and

(VIII) Limitations on installation operations and work practice standards affecting emissions for all regulated air pollutants.

(C) Applicant Responsibilities Regarding the Permit Application.

1. The applicant shall submit the information specified in the application package for each emissions unit being constructed or modified.

2. Certification by a responsible official. Any application form or report submitted pursuant to this rule shall contain certification by a responsible official of truth, accuracy, and completeness. This certification, and any other certification, shall be signed by a responsible official and contain the following language: I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

3. The applicant shall supply the following supplemental information in addition to the application:

A. Additional information, plans, specifications, drawings, evidence, documentation, and monitoring data that the permitting authority may require to verify applicability and complete review under this rule;

B. Other information required by any applicable requirement. Specific information may include, but is not limited to, items such as testing reports, vendor information, material safety data sheets, or information related to stack height limitations developed pursuant to section 123 of the Clean Air Act;

C. Calculations on which the information in parts (3)(B)2.D(I) through (3)(B)2.D(VIII) of this rule are based;

D. Related information in sufficient detail necessary to establish compliance with the applicable standard reference test method, if any; and

E. Ambient air quality modeling data, in accordance with section (5) or (8) of this rule, for all pollutants requiring modeling to determine the air quality impact of the construction or modification of the installation.

4. Confidential information. An applicant may submit information to the permitting authority under a claim of confidentiality pursuant to 10 CSR 10-6.210. The confidentiality request needs to be submitted with the initial application to ensure confidentiality.

5. Duty to supplement or correct application. Any applicant that fails to submit any relevant facts or submits incorrect information in a permit application, upon becoming aware of the failure or incorrect submittal, shall promptly submit supplementary facts or corrected information. In addition, an applicant shall provide additional information, as necessary, to address any requirements that become applicable to the installation after the date an application is deemed complete, but prior to the issuance of the construction permit.

6. Filing fees in accordance with subparagraph (3)(D)5.I. of this rule.

(D) Completeness Review of Application. Review of applications for completeness includes the following:

1. The permitting authority will review each application for completeness and inform the applicant within thirty (30) days if the application is not complete. In order to be complete, an application must include a completed application package and the information required in subsection (3)(C) of this rule.

2. If the permitting authority does not notify the installation that its application is not complete within thirty (30) days of receipt of the application, the application shall be deemed complete. However, nothing in this subsection prevents the permitting authority from requesting additional information that is necessary to process the application.

3. The permitting authority maintains a checklist to be used for the completeness determination. A notice of incompleteness identifying the application's deficiencies will be provided to the applicant.

(E) Conditions that the permitting authority can require in permit. The permitting authority may impose conditions in a permit necessary to accomplish the purposes of this rule, any applicable requirements, or the Air Conservation Law, Chapter 643, RSMo, and are no less stringent than any applicable requirements. Such conditions may include:

1. Operating or work practice constraints to limit the maximum level of emissions;

2. Emission control device efficiency specifications to limit the maximum level of emissions;

3. Maximum level of emissions;

4. Emission testing after commencing operations, to be conducted by the owner or operator, as necessary to demonstrate compliance with applicable requirements or other permit conditions;

5. Instrumentation to monitor and record emission data;

6. Other sampling and testing facilities;

7. Data reporting;

8. Post-construction ambient monitoring and reporting;

9. Sampling ports of a suitable size, number, and location; and

10. Safe access to each port.

(F) Following review of an application, the permitting authority will issue a draft permit for public comment in accordance with the procedures for public participation as specified in subsection (12)(A), Appendix (A) of this rule for all applications for sources that:

1. Emit five (5) or more tons of lead per year;