This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 1—Director's Office
Chapter 3—Consolidation of Permit Processing

ORDER OF RULEMAKING

By the authority vested in the Department of Natural Resources under section 640.010, RSMo 2016, the department amends a rule as follows:

10 CSR 1-3.010 Consolidation of Permit Processing **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2018 (43 MoReg 2039). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-2.260 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1266–1270). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received twenty-one (21) comments from five (5) sources: the Boeing Company, the U.S. Environmental Protection Agency (EPA), Missouri Coalition for the Environment (MCE), Missouri Petroleum Markets & Convenience Store Association (MPCA), and the Petroleum Storage Tank Insurance Fund (PSTIF).

COMMENT #1: The Boeing Company commented that the title of rule 10 CSR 10-2.260 should be revised to "Control of Emissions During Petroleum Liquid Storage, Loading, and Transfer" to be consistent with the proposed St. Louis sister rule 10 CSR 10-5.220.
RESPONSE AND EXPLANATION OF CHANGE: The department amended the rule's title as suggested. The amended title more accurately describes the rule's purpose.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).
Section 110(l): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard pollutant and/or precursor. Thus, any SIP rule is subject to this section.
Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City - an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.
RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #3: The EPA commented that the department is revising this rule applicable in the Kansas City area (Clay, Jackson, and Platte Counties), and a similar rule 10 CSR 5.220, applicable in St. Louis (St. Louis City and Jefferson, St. Charles, Franklin, and St. Louis Counties). For increased clarity to the public, EPA recommends that the department make similar revisions to both rules.
RESPONSE AND EXPLANATION OF CHANGE: The department intends to match rules 10 CSR 10-2.260 and 10 CSR 10-5.220 as much as possible. We revised subparagraphs (3)(C)2.B. and C. to remove the terms "static pressure tested" and "bench tested." We added references to test methods in subsections (5)(D) and (E) to

minimize confusion and still retain the intended meaning.

COMMENT #4: The EPA commented that the rule text includes the insertion of several definitions. However, one (1) of the new definitions (gasoline dispensing facility) is different than what is provided in the state's 10 CSR 10-6.020 Definitions and Common Reference Tables. For clarity, EPA recommends that these definitions match. If definitions are purposefully different, then EPA recommends that the department explain which definition supersedes.
RESPONSE: The department moved definitions specific to the rule back into the rule text to reduce confusion and amended definitions as needed during the proposed rulemaking. A list of those definitions is found in section (2). Changes to 10 CSR 10-6.020 are also being made to remove rule specific definitions. No changes were made to the rule text as a result of this comment.

COMMENT #5: The EPA commented that there are two (2) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.
RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-2.260. As a result of this comment, no changes were made to the rule text.

COMMENT #6: The EPA commented that there are several references in this rule to various sections of 10 CSR 10-6.040 Reference Methods that do not currently exist in 10 CSR 10-6.040. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.040 was also submitted.
RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.040 Reference Methods and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-2.260. As a result of this comment, no changes were made to the rule text.

COMMENT #7: The EPA commented that the rule text proposes to change the general provisions for gasoline loading to apply to "distribution facilities" instead of "loading installations." The department did not provide a definition for "distribution facility" and the term "loading installation" is only provided in the definition of the term "Stage I vapor recovery system"; without the definitions of "distribution facility" and "loading installation" it is unclear if there is a change in applicability. Also, the department did not provide information on how many facilities are affected by this change. If there is a real change in applicability, the department will need to submit a demonstration ensuring that the department's SIP submission meets the requirements of section 110(l) and 193 of the Clean Air Act (CAA), also known as the "anti-backsliding" provisions.
RESPONSE: The department defines terms specific to this rule in section (2). As a result of other comments regarding definitions, the department added and/or amended proposed definitions. The department is not changing the applicability of the rule. No changes were made to the rule text as a result of this comment.

COMMENT #8: The EPA commented that the rule text proposes to change the applicability of this rule in paragraph (3)(C)1. from tanks that are greater than five hundred (500) gallons to tanks that are greater than five hundred fifty (550) gallons. Because of the change in applicability, the department will need to submit a demonstration ensuring that the department's SIP meets the requirements of section 110(l) and 193 of the CAA.
RESPONSE: The reason for the change is because the department has learned that most tanks built in the proposed affected range are already built to comply with the requirements in paragraph (3)(C)1. while tanks less than five hundred fifty (550) gallons generally would need to be modified to comply which is increased burden to the regulated community to retrofit these tanks. The department is changing the current affected storage tank size of two hundred fifty (250) gallons in paragraph (3)(C)1. to five hundred fifty (550) gallons to be consistent with the proposed language in 10 CSR 10-5.220. Historically, the St. Louis ozone non-attainment area has higher concentrations of ozone than the Kansas City area. Having the Kansas City rule stricter than the St. Louis rule therefore is not consistent with the ozone concentrations in the two (2) cities. The modification to 10 CSR 10-2.260 makes the two (2) rules consistent and reduces burden on the regulatory community. No changes were made to the rule text as a result of this comment.

COMMENT #9: The EPA commented that the rule text in part (3)(C)1.C.(III), proposes to add the ability for an equivalent pressure/vacuum valve to be used as approved by the staff director. The department should add information to the rule explaining how the staff director will determine equivalency of the pressure/vacuum valve.
RESPONSE: While EPA recommends that the department add information to the rule explaining how the staff director will determine equivalency of the pressure/vacuum valve, the department does not plan to change the language at this time. The language provides for the staff director to approve a pressure/vacuum valve that is equivalent to that certified by the California Air Resources Board (CARB). This equivalent language is adequate for the smaller size tanks covered under this paragraph and is protective of air quality. Adding specific test method requirements such as EPA recommends would not be consistent with how larger tank components are addressed in paragraphs (3)(C)2. and (3)(C)3. No changes were made to the rule text as a result of this comment.

COMMENT #10: The EPA commented that, in subparagraph (3)(C)2.B. and (3)(C)2.C. of the proposed rule the department has decreased the frequency of a testing requirement. In subparagraph (3)(C)2.B the frequency to test Stage I vapor recovery systems for static pressure was increased from every five (5) years to six (6) years. In subparagraph (3)(C)2.C. the frequency to bench test the pressure/vacuum valves pressure was increased from every two (2) years to three (3) years. Because of these changes, the department will need to submit a demonstration ensuring that the department's SIP submission meets the requirements of section 110(l) and 193 of the CAA.
RESPONSE: The department is changing the frequency of testing to allow facilities to perform their testing on the same schedule or cycle. Testing on a two (2) and five (5) year schedule does not allow for coordinated testing and is an unnecessary burden to facilities. Changing to three (3) and six (6) year schedules allows for testing to fall on common years. Changing the testing frequency by one (1) year is not expected to result in increased emissions or have negative effects on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #11: The EPA encourages the department to consider adding 40 CFR 60, Appendix A instead of adding a reference to 10 CSR 10-6.030(22) in subparagraph (3)(E)1.B. and subsection (5)(B) of this rule. The subparagraph and subsection already specify which test methods to use (Method 21 and Method 25, respectively) while the proposed rule text language for the potential revisions to 10 CSR 10-6.030, adding section (22), incorporates 40 CFR 60 in its entirety by reference. The EPA recommends, if the department intends to continue to incorporate requirements of the Code of Federal Regulations (CFR) by reference, that the incorporations be very specific.
RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1–6, where stack testing methods or guidance documents are mentioned more than once, a

reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

COMMENT #12: The EPA encourages the department to assess the need for adding an incorporation by reference of 40 CFR 63, in its entirety, in subsection (5)(A) of this rule because the section already specifies that determinations of "compliance with subparagraph (3)(D)1.A. shall be performed according to 40 CFR 63.425(e)." Incorporation by reference should be specific and the incorporation of reference of 40 CFR 63 in its entirety provides no additional clarity than what is already specified in the subsection.
RESPONSE AND EXPLANATION OF CHANGE: The department amended the incorporation by reference in subsection (5)(A) to be more specific to 40 CFR 63.425(e).

COMMENT #13: The MCE commented to not change this Code of State Regulation.
RESPONSE: This rulemaking benefits the regulated community by removing obsolete provisions, reducing the burden on low throughput facilities, improving consistency with the St. Louis rule 10 CSR 10-5.220 that regulates the same types of facilities, and clarifying rule language on testing and other items. No changes were made to the rule text as a result of this comment.

COMMENT #14: The MPCA supports elimination of all reference to the Missouri Performance Evaluation Testing Procedures (MOPETP). They expressed appreciation for the ongoing dialogue the department has maintained with MPCA members and other interested parties.
RESPONSE: The proposed rulemaking removed specific reference to MOPETP and included necessary MOPETP provisions in the rule requirements. No additional rule text changes are necessary as a result of this comment.

COMMENT #15: The MPCA commented that the current requirement specifying use of a pressure/vacuum valve certified by the CARB at three inches (3") wcp and eight inches (8") wcv does not work in the real world, and owners who meet this requirement are often then forced into non-compliance with the department's underground storage tank (UST) rules, as the valves cause their automatic tank gauges to malfunction. They do not oppose the requirement that valves have a three inches (3") wcp feature to prevent emission of volatile hydrocarbons during fuel delivery, but the vacuum requirement is problematic. They requested that, once a particular device has been demonstrated to the department's satisfaction that it has a collection efficiency of at least ninety-eight percent (98%), the rule should authorize the director of the department's Air Pollution Control Program to approve the device one time, after which any UST owner/operator could use that device and be in compliance with the rule.
RESPONSE: The department is aware of the problem of excessive tank vacuum and proposed a change in the wording during the proposed rulemaking. The department revised part (3)(C)1.C.(III) to include language that would allow the director to approve a pressure/vacuum valve and expanded the pressure specifications from the current rule. No changes were made to the rule text as a result of this comment.

COMMENT #16: The MPCA requested adding language to explicitly state that the owner/operator need not wait for department inspectors to be present to conduct tests after repairs.
RESPONSE AND EXPLANATION OF CHANGE: The department amended subparagraphs (3)(C)2.B. and C. as part of this proposed rulemaking stating that the department is to be notified prior to the test to allow an observer to be present, but it did not make it clear that the department is not required to be present to observe the test. The department added rule text to make it clear that the department does not need to be present to observe the test.

COMMENT #17: The PSTIF supports changing the specifications for p/v valves from three inches (3") wcp and eight inches (8") wcv to "positive pressure setting of two and one-half to six inches (2.5–6") of water and negative pressure setting of six to ten inches (6.0–10.0") of water." This will allow tank owners access to a broader range of equipment options and hopefully will allow them to more easily comply with both this rule and the department's UST rules.
RESPONSE: The proposed rulemaking changed the valve specification to allow facilities more options and reduce burden. No additional rule text changes are necessary as a result of this comment.

COMMENT #18: The PSTIF supports the proposed changes aimed at clarifying that bulk plants with low throughput are exempt from certain requirements of the rule. However, putting a definition of "Gasoline Distribution Facility" within the definition of "Gasoline Dispensing Facility" seems awkward; further, please note it is not "the facility" that "transfers, loads," etc. PSTIF made the following comments related to these changes: 1) As an alternative, since the terms "bulk plant" and "bulk terminal" are defined in the rule, perhaps a definition of "Gasoline Distribution Facility" should be included in the Definitions section; a suggested definition is: "A bulk terminal, bulk plant, pipeline terminal, or marine terminal.", 2) A different option would be to define "Gasoline Distribution Facility" without using the words "bulk plant" or "bulk terminal" and remove those two (2) terms from the Definitions section of the rule., and 3) Either way, the department may want to consider retitling subsection (3)(B) to "Loading at Gasoline Distribution Facilities" and retitling subsection (3)(C) to "Gasoline Transfer at GDFs."
RESPONSE AND EXPLANATION OF CHANGE: The department amended the definition of gasoline dispensing facility, added a definition for gasoline distribution facility, and deleted the definitions of bulk plant and bulk terminal to minimize confusion in section (2). As a result of this comment, the department reviewed all section (2) definitions and removed the definition of vapor tight as it is not used in the rule. The section (2) definitions were renumbered as a result of the deletions and addition. We retained the subsection title at (3)(B), but amended the subsection title at (3)(C) to clarify intent and match the titles in 10 CSR 10-5.220.

COMMENT #19: The PSTIF commented that the definition for "ullage" seems awkward; perhaps something like the following may be clearer: "The volume of the free space above the liquid in a gasoline tank."
RESPONSE AND EXPLANATION OF CHANGE: The department amended the definition of ullage from what was in the proposed rulemaking to a definition that more accurately reflects the usage of the term in the rule.

COMMENT #20: The PSTIF supports the rule's exemption for tanks between two hundred fifty (250) and five hundred fifty (550) gallons.
RESPONSE: The department changed the tank exemption size to reduce the burden on facilities. Refer back to the department's response to comment #8 for more details. No changes were made to the rule text as a result of this comment.

COMMENT #21: The PSTIF commented that it appears the testing references in subsections (5)(D) and (5)(E) may be reversed.
RESPONSE AND EXPLANATION OF CHANGE: The department appreciates PSTIF bringing this to our attention and has corrected the rule references as a result of this comment.

10 CSR 10-2.260 Control of Emissions During Petroleum Liquid Storage, Loading, and Transfer

(2) Definitions.
(A) CARB—California Air Resources Board.

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

(C) 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.

(D) 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.

(E) 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.

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

(G) Department—Missouri Department of Natural Resources.

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

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

(J) 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; 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.

(K) Gasoline distribution facility—Any facility that receives gasoline by pipeline, ship or barge, or cargo tank and subsequently loads the gasoline into gasoline delivery vessels for transport to gasoline dispensing facilities.

(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 meeting ASTM D396-17 requirements as specified in 10 CSR 10-6.040(12), gas turbine fuel oils Number 2-GT–4-GT meeting ASTM D2880-15 requirements as specified in 10 CSR 10-6.040(20), and diesel fuel oils Number 2-D and 4-D meeting ASTM D975-17 requirements as specified in 10 CSR 10-6.040(14).

(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) 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.

(S) 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. Copies can be obtained from the API Publishing Services, 1220 L Street, Washington, DC 20005. This rule does not incorporate any subsequent amendments or additions.

(T) Ullage—Volume of a container not occupied by liquid.

(U) 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.

(V) Waxy, heavy pour crude oil—A crude oil with a pour point of fifty degrees Fahrenheit (50 °F) or higher compliant with ASTM D97-12 requirements as specified in 10 CSR 10-6.040(10).

(W) 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.

(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 (550) gallons unless—

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

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

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

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

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

(III) Equipped with a pressure/vacuum valve that is CARB certified or equivalent as approved by the staff director. The pressure specifications for the pressure/vacuum valves shall be a positive pressure setting of two and one-half to six inches (2.5–6") of water and a negative pressure setting of six to ten inches (6.0–10.0") of water.

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

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

B. At the time of installation and every six (6) years thereafter, each Stage I vapor recovery system shall be tested according to subsection (5)(E) of this rule. The department must be notified at least seven (7) days prior to the test date to allow an observer to be present. It is not required for the department to be present to observe the test. The test results must be submitted to the staff director within fourteen (14) days of test completion. Each system has to be capable of meeting the static pressure performance requirement of the following equation:

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

Where:

P_f = Minimum allowable final pressure, inches of water.
v = Total ullage affected by the test, gallons.
e = Dimensionless constant equal to approximately 2.718.
2 = The initial pressure, inches water.

C. Pressure/vacuum valves shall be tested according to subsection (5)(D) of this rule at the time of installation and every three (3) years thereafter. The department must be notified at least seven (7) days prior to the test date to allow an observer the opportunity to be present. It is not required for the department to be present to observe the test. The test results must be submitted to the staff director within fourteen (14) days of test completion. The pressure specifications for pressure vacuum valves must be a positive pressure setting of two and one-half to six inches (2.5–6") of water and a negative pressure setting of six to ten inches (6–10") of water. The leak rate of each pressure/vacuum valve shall not exceed four tenths (0.40) cubic foot per hour at a pressure of two inches (2.0") of water and four tenths (0.40) cubic foot per hour at a vacuum of four inches (4.0") of water.

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

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

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

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

B. Each vapor hose is no less than three inches (3") inside diameter;

C. Each product hose is less than or equal to four inches (4") inside diameter; and

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

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

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

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

(5) Test Methods.

(A) 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 63.425(e), Subpart R, 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.

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

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

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-2.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1270–1272). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received four (4) comments on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 stating the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: There is a reference in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030

was also submitted.
RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-2.300. No changes were made to the rule text as a result of this comment.

COMMENT #3: Where the department is introducing a definition not previously used, EPA recommends that the department use already codified definitions found in the *Code of Federal Regulations* (CFR) or in the SIP where available. For example, the department is proposing to define "Paints, varnishes, lacquers, enamels, and other allied surface coating manufacturing facility" at subsection (2)(F), but has not previously defined this term in its 10 CSR 10-2.300 Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Operations regulation or its 10 CSR 10-6.020 Definitions and Common Reference Tables regulation. The EPA recommends that the department use the definitions for "Paints and allied products manufacturing" and "Paints and allied products manufacturing process" provided at 40 CFR Part 63 Subpart CCCCCCC-National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.
RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to revise section (2) to include definitions consistent with those found in the CFR.

COMMENT #4: The EPA encourages the department to reconsider adding a reference to 10 CSR 10-6.030(22) in section (5) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the CFR by reference, that the incorporations be very specific.
RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1–6, where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. No changes were made to the rule text as a result of this comment.

10 CSR 10-2.300 Control of Emissions From the Manufacturing of Paints, Varnishes, Lacquers, Enamels, and Other Allied Surface Coating Products

(2) Definitions.
(F) Paints and allied products—Materials such as paints, inks, adhesives, stains, varnishes, shellacs, putties, sealers, caulks, and other coatings from raw materials that are intended to be applied to a substrate and consists of a mixture of resins, pigments, solvents, and/or other additives.
(G) Paints, varnishes, lacquers, enamels, and other allied surface coating products manufacturing—the production of paints and allied products, the intended use of which is to leave a dried film of solid material on a substrate. Typically, the manufacturing processes that produce these materials are described by Standard Industry Classification (SIC) codes 285 or 289 and North American Industry Classification System (NAICS) codes 3255 and 3259 and are produced by physical means, such as blending and mixing, as opposed to chemical synthesis means, such as reactions and distillation. Paints, varnishes, lacquers, enamels, and other allied surface coating products manufacturing does not include:
1. The manufacture of products that do not leave a dried film of solid material on the substrate, such as thinners, paint removers, brush cleaners, and mold release agents;
2. The manufacture of electroplated and electroless metal films;
3. The manufacture of raw materials, such as resins, pigments, and solvents used in the production of paints and coatings; and
4. Activities by end users of paints or allied products to ready those materials for application.
(H) Potential to emit—The emission rates of any pollutant at maximum design capacity. Annual potential shall be based on the maximum annual-rated capacity of the facility assuming continuous year-round operation. Federally enforceable permit conditions on the type of materials combusted or processed, operating rates, hours of operation, and the application of air pollution control equipment shall be used in determining the annual potential. Secondary emissions do not count in determining annual potential.
(I) Volatile organic compound (VOC)—See definition in 10 CSR 10-6.020.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-5.500 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1272–1277). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received ten (10) comments on this rulemaking: one (1) from Trinity Consultants and nine (9) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: Trinity Consultants commented that they would like to see the recordkeeping requirements for sites with tanks less than forty thousand (40,000) gallons eliminated from this rule. Requiring recordkeeping for sites with tanks less than forty thousand (40,000) gallons is burdensome and unnecessarily restrictive since these sites are not subject to other requirements in this rule.
RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment and because the recordkeeping requirement does not have an effect on air quality, the department plans to remove the recordkeeping requirements for tanks less than forty thousand (40,000) gallons from subsection (4)(E).

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).
Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.
Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)), describes how section 193 applies to

Kansas City - an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.
RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #3: The EPA commented that the rule text includes the insertion of several definitions. However, the definition for "Reid vapor pressure" is different than what is provided in the state's 10 CSR 10-6.020 Definitions and Common Reference Tables. For clarity, EPA recommends that these definitions match. If definitions are purposefully different, then EPA recommends that the department explain which definition applies to the rule.
RESPONSE: Since specific definitions are proposed within the rule and the reference to 10 CSR 10-6.020 is proposed for removal at the same time, it is unnecessary to explain that similar terms defined elsewhere do not apply. No changes were made to the rule text as a result of this comment.

COMMENT #4: Additionally, EPA commented that the definition of "Reid vapor pressure" in subsection (2)(S) refers to "an appropriate test method" found in section (5) of the rule. The definition of "Reid vapor pressure" at 40 CFR 60.111(a) reads, "Reid vapor pressure is the absolute vapor pressure of volatile crude oil and nonviscous petroleum liquids, except liquified petroleum gases, as determined by American Society for Testing and Materials (ASTM) D323-82 or 94 (incorporated by reference - see 60.17)." The public may not be aware of how to appropriately determine "Reid vapor pressure" because the ASTM method is excluded from subsection (2)(S) and section (5).
RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to revise the definition of "Reid vapor pressure" to specify the appropriate test method for determining Reid vapor pressure.

COMMENT #5: Where the department is introducing a definition not previously used (i.e., "Closed vent system," "Maximum true vapor pressure" and "Vapor mounted seal") EPA recommends that the department use already codified definitions found in the Code of Federal Regulations (CFR) or in the SIP where available.
RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to revise the definitions of "closed vent system," "maximum true vapor pressure," and "vapor-mounted seal" to match definitions found in the CFR. In addition, the department plans to add the definition of "rim seal" as it is used in the definition of "vapor-mounted seal," and revise the subparagraph lettering in section (2).

COMMENT #6: There are three (3) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.
RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-5.500. No changes were made to the rule text as a result of this comment.

COMMENT #7: There are several references in this rule to various sections of 10 CSR 10-6.040 Reference Methods that do not currently exist in 10 CSR 10-6.040. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.040 was also submitted.
RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.040 Reference Methods and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-5.500. No changes were made to the rule text as a result of this comment.

COMMENT #8: The EPA encourages the department to reconsider adding a reference to 10 CSR 10-6.030(22) in subparagraphs (3)(A)3.A., (3)(A)3.B, and paragraph(4)(C)3. of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the CFR by reference, that the incorporations be very specific.
RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1–6, where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

COMMENT #9: The EPA recommends that the department reconsider its deletion of subsection (4)(E) that specifies that "the owner or operator shall maintain records of tank cleaning operations to document the date when control devices are required." There doesn't appear to be a replacement for the language in the proposed revision text and without it the subsection, the record keeping requirement is wholly removed.
RESPONSE: The purpose of subsection (4)(E) was to document the date in which existing sources were required to install control devices. Since the March 15, 2004 deadline has passed, all affected sources must now have control devices installed and it is no longer necessary to document this information. No changes were made to the rule text as a result of this comment.

COMMENT #10: In section (5) Test Methods, the department is proposing to replace the combination of EPA's Methods 1, 2, 18, 21, 22, 25, 25A/B and the ASTM's D323-94, D4953, D5190 and D5191 with the combination of the American Petroleum Institute's Manual of Measurement Standards, Chapter 19.2 for Evaporative Loss from External Floating-Roof Tanks and the ASTM's methods D323-15a, D2879-10, D4953-15, and D5191-15. However, EPA does not believe that the proposed new methods would be 'equivalent' to EPA's Methods 1, 2, 18, 21, 22, 25, 25A/B. It is possible that the ASTM's methods D323-15a, D2879-10, D4953-15, and D5191- 15 might be adequate replacements for ASTM D323-94, D4953, D5190 and D5191 in their prior rule, but that would require a side-by side review of the method versions that was not included with the Rulemaking Report. As such, EPA recommends that the department and EPA work together to ensure that the proposed changes would be protective of the NAAQS prior to the rule revision changes being sent to EPA as a SIP revision.
RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to revise section (5) to include EPA's Methods 1, 2, 18, 21, 22, 25, 25A, and 25B ASTM's D323-94, D4953, and D5191. ASTM D5190 will not be included since this test method has been withdrawn.

10 CSR 10-5.500 Control of Emissions From Volatile Organic Liquid Storage

(2) Definitions.
(B) Closed vent system—A system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device.
(D) Control device—An enclosed combustion device, vapor recovery system, or flare.
(E) Control equipment—Any equipment that reduces the quantity

of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery. Includes, but is not limited to, incinerators, carbon adsorbers, and condensers.

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

(N) Maximum true vapor pressure—The equilibrium partial pressure exerted by the volatile organic compounds in the stored volatile organic liquid (VOL) at the temperature equal to the highest calendar-month average of the VOL storage temperature for VOLs stored above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for VOLs stored at the ambient temperature, as determined:

1. In accordance with methods described in American Petroleum Institute Bulletin 2517, Evaporation Loss From External Floating Roof Tanks (incorporated by reference in section (5));
2. As obtained from standard reference texts;
3. As determined by ASTM D2879-83, 96, or 97 (incorporated by reference in section (5));
4. Any other method approved by the director.

(S) Reid vapor pressure—The absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquified petroleum gases, as determined by ASTM D323-82 or 94 (incorporated by reference in section (5)).

(T) Rim seal—A device attached to the rim of a floating roof deck that spans the annular space between the deck and the wall of the storage vessel. When a floating roof has only one (1) such device, it is a primary seal; when there are two (2) seals (one (1) mounted above the other), the lower seal is the primary seal and the upper seal is the secondary seal.

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

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

1. Frames, housing, auxiliary supports, or other components that are not directly involved in the containment of liquids or vapors; or
2. Subsurface caverns or porous rock reservoirs.

(W) Vapor-mounted seal—A rim seal designed not to be in contact with the stored liquid. Vapor-mounted seals may include, but are not limited to, resilient seals and flexible wiper seals.

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

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

(Z) Volatile organic liquid (VOL)—Any substance which is a liquid at storage conditions containing one (1) or more volatile organic compounds.

(4) Reporting and Record Keeping.

(E) The owner or operator of each storage vessel specified in section (1) of this rule shall maintain readily accessible records of the dimensions of the storage vessel and an analysis of the capacity of the storage vessel.

(5) Test Methods.

(A) American Petroleum Institute (API) Bulletin 2517, *Evaporation Loss From External Floating Roof Tanks*, Second Edition, as published by API, February 1980. This publication is hereby incorporated by reference in this rule. Copies can be obtained from API, 1220 L Street NW, Washington, DC 20005. This rule does not incorporate any subsequent amendments or additions.

(B) The following documents are published by the American Society for Testing and Materials (ASTM) and incorporated by reference in this rule. Copies can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions—

1. ASTM D323-82 or 94 *Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)*;
2. ASTM D2879-83, 96, or 97 *Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope*;
3. ASTM D4953 *Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)*; and
4. ASTM D5191 *Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method)*.

(C) The following test methods are incorporated as specified in 10 CSR 10-6.030(22):

1. Test Methods 1 and 2 (40 CFR 60, Appendix A) for determining flow rates, as necessary;
2. Test Method 18 (40 CFR 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;
3. Test Method 21 (40 CFR 60, Appendix A) for determination of volatile organic compound leaks;
4. Test Method 22 (40 CFR 60, Appendix A) for visual determination of fugitive emissions from material sources and smoke emissions from flares;
5. Test Method 25 (40 CFR 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;
6. Test Methods 25A or 25B (40 CFR 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis; and
7. Test method described in 40 CFR 60.113(a)(ii) for measurement of storage tank seal gap;

(D) Other method approved by the director.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-5.530 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1277–1282). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received seven (7) comments on this rule. Six (6) comments on this rulemaking were from the U.S. Environmental Protection Agency (EPA) and one (1) comment from department staff.

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any

area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City - an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.
RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: The proposed rule text is changing the applicability of the rule, at subsection (l)(B), from applying to all wood furniture manufacturing installations that have the potential to emit equal to or greater than twenty-five (25) tons per year (tpy) of volatile organic compounds (VOC) to applying to only those "existing" sources that have the potential to emit equal to or greater than twenty-five (25) tpy of VOCs. The proposed rule revision does not provide a date threshold for the public to determine when a source would be considered an "existing" source versus when it would be considered a "new" source. Additionally, because of the change of applicability, the department would need to provide a demonstration ensuring that the SIP revision would not interfere with attainment of the NAAQS.
RESPONSE: The purpose of this rule is to limit the VOC emissions from wood furniture manufacturing operations by incorporating reasonably available control technology (RACT) for one (1) source in the St. Louis nonattainment area. Adding the word "existing" to the applicability is simply a clarification. The word "existing" is in the title of the rule, and the department reiterates that RACT rules were intended to apply to existing major sources in nonattainment areas present at the time of the rule's promulgation. The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA section 110(l) requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

Due to similar concerns expressed in the following two (2) comments, one (1) response that addresses these concerns is at the end of these two (2) comments.

COMMENT #3: A potential way for the department to demonstrate that the SIP revision would not interfere with attainment of the NAAQS might be provide explanation of how its SIP-approved Prevention of Significant Deterioration (PSD) program would ensure that the start-up of a new source or modification of an existing source would be controlled in an equivalent manner as would be required by the rescinded rule.
COMMENT #4: If in the event the start-up of a new source or modification to an existing source would not be applicable under PSD but would otherwise be an applicable source under the rescinded rule, the department should provide a demonstration of the potential emissions from such sources and make a determination about the source's potential impact on air quality.
RESPONSE: To address EPA's concern about limiting VOC emissions from a new source, the department reiterates that RACT rules were intended to apply to existing major sources in nonattainment areas present at the time of the rule's promulgation. Any new sources or major modifications of existing sources would not be subject to this RACT rule and instead would be subject to new source review (NSR) permitting and current applicable state or federal rules.

The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA section 110(l) requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #5: There are two (2) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.
RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-5.530. No changes were made to the rule text as a result of this comment.

COMMENT #6: The EPA encourages the department to consider adding 40 CFR 60, Appendix A instead of adding a reference to 10 CSR 10-6.030(22) in section (5) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the *Code of Federal Regulations* by reference, that the incorporations be very specific.
RESPONSE: The department appreciates this comment and, for all air rules found in 10 CSR 10-Chapters 1–6 where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. No changes were made to the rule text as a result of this comment.

COMMENT #7: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory obligation had become discretionary in subsection (5)(C). The proposed amendment would modify the language of that requirement from "shall" to "have to." Because those terms may have different legal effect, the change may be misinterpreted.
RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in order to clarify the obligation for facilities.

10 CSR 10-5.530 Control of Volatile Organic Compound Emissions From Wood Furniture Manufacturing Operations

(5) Test Methods.

(C) Owners or operators using a control system shall demonstrate initial compliance using the following 40 CFR 60 methods as incorporated by reference in 10 CSR 10-6.030(22).

1. The VOC concentration of gaseous air streams shall be determined with a test consisting of three (3) separate runs, each lasting a minimum of thirty (30) minutes using one (1) of the following reference methods:

A. Method 18;

B. Method 25;

C. Method 25A.

2. Sample and velocity traverses shall be determined by using one (1) of the following reference methods:

A. Method 1; or

B. Method 1A.

3. Velocity and volumetric flow rates shall be determined by using one (1) of the following reference methods:

A. Method 2; or
B. Method 2A;
C. Method 2C;
D. Method 2D;
E. Method 2F;
F. Method 2G; or
G. Method 2H.
4. To analyze the exhaust gases, use Method 3.
5. To measure the moisture in the stack gas, use Method 4.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-5.540 Control of Emissions From Batch Process Operations **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1282–1286). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(1): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)), describes how section 193 applies to Kansas City - an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: There are five (5) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-5.540. As a result of this comment, no changes were made to the rule text.

COMMENT #3: The EPA encourages the department to reconsider adding a reference to 10 CSR 10-6.030(22) in paragraphs (3)(C)1., (3)(C)2., (3)(C)3., and (3)(C)4., and subsections (5)(C) and (5)(F) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the Code of Federal Regulations by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1–6, where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1287–1293). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received two (2) comments on this rulemaking: one (1) from The Boeing Company and one (1) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The Boeing Company commented, in proposed subsection (3)(A), the incorporation by reference as of July 1, 2018 makes the additional phrase ". . .and *Federal Register* notice 83 FR 10628, promulgated on March 12, 2018" superfluous. The March 12, 2018 *Federal Register* notice changes are included in the *Code of Federal Regulations* dated July 1, 2018. The purpose statement should also be aligned to state the incorporation dates from January 1, 2013 through June 29, 2018 (rather than March 12, 2018).

RESPONSE AND EXPLANATION OF CHANGE: Thank you for bringing this to our attention. As a result of this comment the department plans to remove the references to *Federal Register* notices in paragraph (3)(A)1.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable

requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

10 CSR 10-6.070 New Source Performance Regulations

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 60, promulgated as of July 1, 2018, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the U.S. Environmental Protection Agency (EPA);

B. Sections 60.4, 60.9, and 60.10 of subpart A;

C. Subpart B;

D. Subpart AAA;

E. Subpart QQQQ; and

F. Incinerators subject to Hazardous Waste Management Commission rule 40 CFR 264, subpart O, as incorporated in 10 CSR 25-7.264, are not subject to this rule. The sources exempted in 40 CFR 264.340(b), as incorporated in 10 CSR 25-7.264, are subject to this rule. All other applicable requirements of Division 25 remain in effect.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.075 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1293–1301). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received two (2) comments on this rulemaking: one (1) from The Boeing Company and one (1) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The Boeing Company commented, in subsection (3)(A) incorporation by reference, the incorporation of the *Code of Federal Regulations* as of July 1, 2018 makes the references to 82 FR 45193, 82 FR 47328, 82 FR 48156, 82 FR 49513, and 83 FR 3986 promulgated between July 1, 2017 and January 29, 2018 superfluous. These latter *Federal Register* rules are included in the July 1, 2018 *Code of Federal Regulations* that is being adopted by reference.

RESPONSE AND EXPLANATION OF CHANGE: Thank you for bringing this to our attention. As a result of this comment the department plans to remove the references to *Federal Register* notices in paragraph (3)(A)1.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

10 CSR 10-6.075 Maximum Achievable Control Technology Regulations

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 63, promulgated as of July 1, 2018, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the United States Environmental Protection Agency (EPA); and

B. Sections 63.13 and 63.15(a)(2) of subpart A.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as

follows:

10 CSR 10-6.080 Emission Standards for Hazardous Air Pollutants **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1301–1303). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received two (2) comments on this rulemaking: one (1) from The Boeing Company and one (1) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The Boeing Company commented, the purpose statement states that federal rule changes from Jan. 1, 2016 to July 1, 2017 are being adopted by reference, but the rule text at (3)(A)1. incorporates *Code of Federal Regulations* changes as of July 1, 2018. To be consistent with the rule, the purpose statement should state that federal changes from Jan. 1, 2016 through June 30, 2018 are being adopted.
RESPONSE: Thank you for bringing this to our attention. The July 1, 2018 date is correct, and no rule changes were made as a result of this comment.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).
Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.
Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.
RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.120 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1303–1304). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment each from two (2) sources: the Doe Run Resource Recycling Facility and the U.S. Environmental Protection Agency (EPA).

COMMENT #1: Doe Run Resource Recycling Facility commented that paragraph (3)(B)1. applies the Secondary Lead Smelting Maximum Achievable Control Technology (MACT) new source limit of 0.000087 gr/dscf to the Doe Run Resource Recycling Facility's Main Stack. Instead the existing source limit of 0.00043 gr/dscf should be applied.
RESPONSE AND EXPLANATION OF CHANGE: The department intends to remove the reference to the Secondary Lead Smelting MACT emission limit from the rule in subsection (3)(B). Removing this emission limit does not remove Doe Run Resource Recycling Facility's requirement to meet the MACT standard, as they are required under 10 CSR 10-6.075 to meet that standard as well. The department has discussed this action with both Doe Run Resource Recycling Facility and EPA, and all concur that removing the MACT standard from the rule is acceptable. The department, by taking this action, will also be able to submit the entire rule for inclusion in the State Implementation Plan (SIP).

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring SIP revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).
Section 110(l): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.
Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.
RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #3: There are two (2) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-6.120. As a result of this comment, no changes were made to the rule text.

COMMENT #4: The EPA encourages the department to consider adding "40 CFR Part 60, Appendix A" instead of adding a reference to 10 CSR 10-6.030(22) in subsections (5)(B) and (5)(C) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the *Code of Federal Regulations* by reference, that the incorporations be very specific.
RESPONSE: The department appreciates this comment and, for all air rules found in 10 CSR 10-Chapters 1–6 where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

10 CSR 10-6.120 Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations

(3) General Provisions.
(B) Provisions Pertaining to Limitations of Lead Emissions from Specific Installations. Doe Run Resource Recycling Division in Boss, Missouri, shall limit total lead production to one hundred seventy-five thousand (175,000) tons per year.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.161 Commercial and Industrial Solid Waste Incinerators **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1312–1313). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).
Section 110(l): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.
Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.
RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA section 111(d) plan requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: The EPA encourages the department to assess the need for adding a reference to 10 CSR 10-6.030(22) in section (3), subparagraphs (3)(K)1.A., (3)(K)1.B., (3)(K)1.C., paragraphs (3)(K)2., (3)(K)3., and section (4), because the draft rule text language for the potential revisions to 10 CSR 10-6.030 Sampling Methods, adds section (22) that incorporates 40 CFR Part 60 in its entirety by reference.
RESPONSE: The department appreciates this comment and, for all air rules found in 10 CSR 10 Chapters 1–6 where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

COMMENT #3: The EPA recommends, if the department intends to continue to incorporate requirements of the *Code of Federal Regulations* by reference, that the incorporations be very specific. Because the title of 10 CSR 10-6.161 is Commercial and Industrial Solid Waste Incinerators, EPA recommends that the department consider incorporating by reference only the related requirements of 40 CFR Part 60, Subpart DDDD into the Missouri Air Conservation Commission rule.
RESPONSE: The department is being very specific in the incorporations by reference in this rule and is also revising the incorporations by reference in the 10 CSR 10-6.030 rule to be more specific as a result of comments received on that proposed rulemaking. As a result of this comment, no changes were made to the rule text.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.241 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1313–1316). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received a total of six (6)

comments on this rulemaking. One (1) comment on this rulemaking was from the U.S. Environmental Protection Agency (EPA), one (1) comment was from the department, and four (4) comments were from the St. Louis County Air Pollution Control Program.

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: Since the proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory obligation had become discretionary in subsection (3)(D) and paragraph (4)(A)2. The proposed amendment would modify the language of that requirement from "shall" to "has to" or "have to." Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the rule language to retain the word "shall" in subsection (3)(D) and paragraph (4)(A)2. in order to clarify the obligation for facilities.

COMMENT #3: The St. Louis County Air Pollution Control Program recommended the program clarify and align the definition of "Asbestos Abatement" with the Asbestos National Emission Standards for Hazardous Air Pollutants requirements. The St. Louis County Air Pollution Control Program recommended that changes to the definitions of Asbestos Abatement in subsection (2)(B) be worded as follows: "The encapsulation, enclosure, or removal of asbestos-containing materials, in or from a structure, or air contaminant source; or preparation of regulated asbestos-containing material prior to demolition or renovation."

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the definition of "Asbestos Abatement" to match the recommended definition, except updating the word "structure" in the new definition to "facility." For consistency, the word "building" located in the definition of subsection (2)(C) will be replaced with the word "facility."

COMMENT #4: The St. Louis County Air Pollution Control Program recommended not changing the rule language in subsection (3)(D) that replaces the word "shall" with "has to." Rule language should leave no doubt as to the intent of the regulation, and changing the word "shall" to one that is less restrictive could lead to various interpretations. The St. Louis County Air Pollution Control Program recommended that changes to subsection (3)(D) be worded as follows: "Any person that authorizes an asbestos project, asbestos inspections, or any AHERA-related work shall ensure that Missouri…".

RESPONSE AND EXPLANATION OF CHANGE: As mentioned in COMMENT #2, the department is revising rule language to retain the word "shall" in subsection (3)(D) in order to clarify the intent of the regulation.

COMMENT #5: The St. Louis County Air Pollution Control Program recommended that an electronic notification option be allowed in paragraph (3)(E)5. of the rule. The St. Louis County Air Pollution Control Program recommended that changes to paragraph (3)(E)5. be worded as follows: "Any person undertaking an emergency asbestos abatement project shall notify the department within twenty-four (24) hours of the onset of the emergency by telephone or by email and must receive departmental approval of emergency status."

RESPONSE AND EXPLANATION OF CHANGE: The department is revising paragraph (3)(E)5. to match the suggested rule language in order to allow electronic notification for an emergency project.

COMMENT #6: The St. Louis County Air Pollution Control Program recommended not changing the rule language in paragraph (4)(A)2. that replaces the word "shall" with "has to." Rule language should leave no doubt as to the intent of the regulation, and changing the word "shall" to one that is less restrictive could lead to various interpretations. The St. Louis County Air Pollution Control Program recommended that changes to paragraph (4)(A)2. be worded as follows: "Business entities are exempt from post-notification requirements, but shall keep records of wasted disposal for department inspection."

RESPONSE AND EXPLANATION OF CHANGE: As mentioned in COMMENT #2, the department is revising rule language to retain the word "shall" in paragraph (4)(A)2. in order to clarify the intent of the regulation.

10 CSR 10-6.241 Asbestos Projects—Registration, Abatement, Notification, Inspection, Demolition, and Performance Requirements

(2) Definitions.

(B) Asbestos abatement—The encapsulation, enclosure, or removal of asbestos-containing materials, in or from a facility, or air contaminant source; or preparation of regulated asbestos-containing material prior to demolition or renovation.

(C) Asbestos inspector— An individual who collects and assimilates information used to determine the presence and condition of asbestos-containing material in a facility or other air contaminant source. An asbestos inspector has to hold a diploma from a fully-approved EPA or Missouri-accredited AHERA inspector course and a high school diploma or its equivalent.

(3) General Provisions.

(D) Any person that authorizes an asbestos project, asbestos inspection, or any AHERA-related work shall ensure that Missouri registered contractors and certified individuals are employed, and that all post-notification procedures on the project are in compliance with this rule and 10 CSR 10-6.250 and Chapter 643, RSMo. Business entities that have exemption status from the state are exempt from using registered contractors and from post-notification requirements, when performing in-house asbestos abatement projects.

(E) Asbestos Project Notification. Any person undertaking an asbestos project shall submit a notification to the department for review at least ten (10) working days prior to the start of the project. Business entities with state-approved exemption status are exempt from notification except for those projects for which notification is

required by the EPA's National Emission Standards for Hazardous Air Pollutants (NESHAPS). The department may waive the ten (10)-working day review period upon request for good cause. To apply for this waiver, the person shall complete the appropriate sections of the notification form provided by the department. The person who applies for the ten (10)-working day waiver must obtain approval from the department before the project can begin.

1. The person shall submit the notification form provided by the department.

2. If an amendment to the notification is necessary, the person shall notify the department immediately by telephone or FAX. The department must receive the written amendment within five (5) working days following verbal agreement.

3. Asbestos project notifications shall state actual dates and times of the project, the on-site supervisor, and a description of work practices. If the person must revise the dates and times of the project, the person shall notify the department and the regional office or the appropriate local delegated enforcement agency at least twenty-four (24) hours in advance of the change by telephone or FAX and then immediately follow-up with a written amendment stating the change. The department must receive the written amendment within five (5) working days of the phone or FAX message.

4. A nonrefundable notification fee of one hundred dollars ($100) will be charged for each project constituting one hundred sixty (160) square feet, two hundred sixty (260) linear feet, or thirty- five (35) cubic feet or greater. Effective January 1, 2017, the notification fee is two hundred dollars ($200). If an asbestos project is in an area regulated by an authorized local air pollution control agency, and the person is required to pay notification fees to that agency, the person is exempt from paying the state fees. Persons conducting planned renovation projects determined by the department to fall under EPA's 40 CFR part 61 subpart M as specified in 10 CSR 10-6.030(23) must pay this fee and the inspection fees required in subsection (3)(F) of this rule.

5. Emergency project. Any person undertaking an emergency asbestos project shall notify the department within twenty-four (24) hours of the onset of the emergency by telephone or by email and must receive departmental approval of emergency status. Business entities with state-approved exemption status are exempt from emergency notification for state-approved projects that are part of a NESHAPS planned renovation annual notification. If the emergency occurs after normal working hours or weekends, the person shall contact the Environmental Services Program. The notice shall provide—

A. A description of the nature and scope of the emergency;

B. A description of the measures immediately used to mitigate the emergency; and

C. A schedule for removal. Following the emergency notice, the person shall provide to the director a notification on the form provided by the department and submit it to the director within seven (7) days of the onset of the emergency. The amendment requirements for notification found in subsection (3)(E) of this rule are applicable to emergency projects.

(4) Reporting and Record Keeping.

(A) Post-Notification.

1. Any person undertaking an asbestos project that requires notification according to subsection (3)(E) of this rule, on the department-provided form shall notify the department within sixty (60) days of the completion of the project. This notice shall include a signed and dated receipt for the asbestos waste generated by the project issued by the landfill named on the notification and any final clearance air monitoring results. The technician performing the analysis shall sign and date all reports of analyses.

2. Business entities are exempt from post-notification requirements, but shall keep records of waste disposal for department inspection.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.250 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1316–1319). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received a total of two (2) comments on this rulemaking. One (1) comment on this rulemaking was from the U.S. Environmental Protection Agency (EPA), and one (1) comment was from the department.

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: Since the proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory obligation had become discretionary in subparagraphs (3)(A)3.B., (3)(D)1.A., and (3)(D)1.C. The proposed amendment would modify the language of that requirement in subparagraph (3)(A)3.B. from "shall include:" to "includes"; and in subparagraphs (3)(D)1.A., and (3)(D)1.C. from "shall" to "is to." Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in subparagraphs (3)(A)3.B., (3)(D)1.A., and (3)(D)1.C. in order to clarify the obligation for facilities.

10 CSR 10-6.250 Asbestos Projects—Certification, Accreditation and Business Exemption Requirements

(3) General Provisions.

(A) Certification.

1. An individual must receive certification from the department before that individual participates in an asbestos project, inspection, AHERA management plan, abatement project design, or asbestos air sampling in the state of Missouri. This certification must be renewed annually with the exception of air sampling professionals. To become certified an individual must meet the qualifications in the specialty area as defined in the EPA's AHERA Model Accreditation Plan, 40 CFR part 763, Appendix C, subpart E promulgated as of July 1, 2018 and hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington DC 20401. This rule does not incorporate any subsequent amendments or additions. The individual must successfully complete a fully-approved U.S. Environmental Protection Agency (EPA) or Missouri-accredited AHERA training course and pass the training course exam and pass the Missouri asbestos examination with a minimum score of seventy percent (70%) and submit a completed department-supplied application form to the department along with the appropriate certification fees. The department shall issue a certificate to each individual that meets the requirements for the job category.

2. In order to receive Missouri certification, individuals must be trained by Missouri accredited providers.

3. Qualifications. An individual shall present proof of these to the department with the application for certification. The following are the minimum qualifications for each job category:

A. An asbestos air sampling professional conducts, oversees, or is responsible for air monitoring of asbestos projects. Air sampling professionals must satisfy one (1) of the following qualifications for certification:

(I) Bachelor of science degree in industrial hygiene plus one (1) year of field experience. The individual must provide a copy of his/her diploma, a certified copy of his/her transcript, and documentation of one (1) year of experience;

(II) Master of science degree in industrial hygiene. The individual must provide a copy of his/her diploma and a certified copy of his/her transcript;

(III) Certification as an industrial hygienist as designated by the American Board of Industrial Hygiene. The individual must provide a copy of his/her certificate and a certified copy of his/her transcript, if applicable;

(IV) Three (3) years of practical industrial hygiene field experience including significant asbestos air monitoring and completion of a forty (40)-hour asbestos course including air monitoring instruction. At least fifty percent (50%) of the three (3)-year period must have been on projects where a degreed or certified industrial hygienist or a Missouri certified asbestos air sampling professional was involved. The individual must provide to the department written reference by the industrial hygienist or the asbestos air sampling professional stating the individual's performance of monitoring was acceptable and that the individual is capable of fulfilling the responsibilities associated with certification as an asbestos air sampling professional. The individual must also provide documentation of his/her experience and a copy of his/her asbestos course certificate; or

(V) Other qualifications including, but not limited to, an American Board of Industrial Hygiene accepted degree or a health/safety related degree combined with related experience. The individual must provide a copy of his/her diploma and/or certification, a certified copy of his/her transcript, and letters necessary to verify experience;

B. An asbestos air sampling technician is an individual who has been trained by an air sampling professional to do air monitoring and who conducts air monitoring of asbestos projects. Air sampling technicians need not be certified but are required to pass a training course and have proof of passage of the course at the site along with photo identification. This course shall include:

(I) Air monitoring equipment and supplies;

(II) Experience with pump calibration and location;

(III) Record keeping of air monitoring data for asbestos projects;

(IV) Applicable asbestos regulations;

(V) Visual inspection for final clearance sampling; and

(VI) A minimum of sixteen (16) hours of air monitoring field equipment training by a certified air sampling professional;

C. An asbestos inspector is an individual who collects and assimilates information used to determine the presence and condition of asbestos-containing material in a building or other air contaminant source. An asbestos inspector must hold a diploma from a fully-approved EPA or Missouri-accredited AHERA inspector course and a high school diploma or its equivalent;

D. An AHERA asbestos management planner is an individual who, under AHERA, reviews the results of inspections, reinspections, or assessments and writes recommendations for appropriate response actions. An AHERA asbestos management planner must hold diplomas from a fully-approved EPA or Missouri-accredited AHERA inspector course and a fully approved EPA or Missouri-accredited management planner course. The individual must also hold a high school diploma or its equivalent;

E. An abatement project designer is an individual who designs or plans asbestos abatement. An abatement project designer must—

(I) Have a diploma from a fully-approved EPA or Missouri-accredited project designer course;

(II) Have an engineering or industrial hygiene degree;

(III) Have working knowledge of heating, ventilation, and air conditioning systems;

(IV) Hold a high school diploma or its equivalent; and

(V) Have at least four (4) years experience in building design, heating, ventilation, and air conditioning systems. The department may require individuals with professional degrees for complex asbestos projects;

F. An asbestos supervisor is an individual who directs, controls, or supervises others in asbestos projects. An asbestos supervisor shall—

(I) Hold a diploma from a fully-approved EPA or Missouri-accredited AHERA abatement contractor/supervisor course; and

(II) Have one (1) year full-time prior experience in asbestos abatement work or in general construction work; and

G. An asbestos abatement worker is an individual who engages in asbestos projects. An asbestos abatement worker shall—

(I) Hold a diploma from a fully-approved EPA; or

(II) Missouri-accredited AHERA worker training course.

4. Certification may be denied for any one (1) or more of the following:

A. Failure to meet minimum training, education, or experience requirements;

B. Providing false or misleading statements in the application;

C. Failure to submit a complete application;

D. Three (3) or more citations or violations of existing asbestos regulations within the last two (2) years;

E. Three (3) or more violations of 29 CFR 1910.1001 or 29 CFR 1926.1101 within the last two (2) years. 29 CFR 1910.1001 and 29 CFR 1926.1101 promulgated as of July 1, 2018 are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;

F. Fraud or failure to disclose facts relevant to their application;

G. Permitting the duplication or use by another of the individual's certificate; and

H. Any other information which may affect the applicant's

ability to appropriately perform asbestos work.

(D) Accreditation of Training Programs. To be a training provider for the purposes of this rule, a person shall apply for accreditation to the department and comply with EPA's AHERA Model Accreditation Plan 40 CFR part 763, Appendix C, subpart E as incorporated by reference in paragraph (3)(B)1. of this rule. Business entities that are determined by the department to fall under subsection (3)(E) of this rule are exempt from this section.

1. Training providers shall apply for approval of a training course(s) as provided in section 643.228, RSMo, on the department-supplied Asbestos Training Course Accreditation form.

A. In addition to the written application, the training provider shall present each initial course for the department to audit. The department may deny accreditation of a course if the applicant fails to provide information required within sixty (60) days of receipt of written notice that the application is deficient. All training providers must apply for reaccreditation biennially.

B. Training providers must submit documentation that their courses meet the criteria set forth in this rule. Out-of-state providers must submit documentation of biennial audit by an accrediting agency with a written verification that Missouri rules are addressed in the audited course.

C. Providers must pay an accreditation fee of one thousand dollars ($1,000) per course category prior to issuance or renewal of an accreditation. No person shall pay more than three thousand dollars ($3,000) for all course categories for which accreditation is requested at the same time.

2. At least two (2) weeks prior to the course starting date, training providers shall notify the department of their intent to offer initial training and refresher courses. The notification shall include the course title, starting date, the location at which the course will take place, and a list of the course instructors.

3. All training courses shall have a ratio of students to instructors in hands-on demonstrations that shall not exceed ten-to-one (10:1).

4. Instructor qualifications.

A. An individual must be Missouri-certified in a specialty area before they will be allowed to teach in that specialty area, except that instructors certified as supervisors may also instruct a worker course.

B. An individual with experience and education in industrial hygiene shall teach the sections of the training courses concerning the performance and evaluation of air monitoring programs and the design and implementation of respiratory protection programs. The department does not require that the instructor hold a degree in industrial hygiene, but the individual must provide documentation and written explanation of experience and training.

C. An individual who is a Missouri-certified supervisor, and who has sufficient training and work experience to effectively present the assigned subject matter, shall teach the hands-on training sections of all courses.

D. An individual who teaches the portions of the project designer's course involving heating, ventilation, and air conditioning (HVAC) systems, must—

(I) Be a licensed architect or a licensed engineer; or

(II) Must provide documentation of training and at least five (5) years' experience in the field.

5. The course provider must administer and monitor all course examinations. The course provider assumes responsibility for the security of exam contents and shall ensure that the participant passes the exam on his/her own merit. Minimum security measures for the written exams include ample space between participants, absence of written materials other than the examination and supervision of the exam by course provider.

6. When the provider offers training on short notice, the training provider shall notify the department as soon as possible but no later than two (2) days prior to commencement of that training.

7. When the provider cancels the course, the training provider should notify the department at the same time s/he notifies course participants, and shall follow-up with written notification.

8. When rules, policies, or procedures change, the training provider must update the initial and refresher courses. The training provider must notify the department as soon as s/he makes the changes.

9. The department may withdraw accreditation from providers who fail to accurately portray their Missouri accreditation in advertisements, who fail to ensure security of examinations, who fail to ensure that each student passes the exam on his/her own merit, or who issue improper certificates.

10. Training course providers must notify the department of any changes in training course content or instructors. Training course providers must submit resumés of all new instructors to the department as soon as substitutions or additions are made.

11. The department may revoke or suspend accreditation of any course subject to this rule if alterations in the course cause it to fail the department's accreditation criteria.

12. Training providers shall have thirty (30) days to correct identified deficiencies in training course(s) before the department revokes accreditation.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.280 Compliance Monitoring Usage **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1319–1320). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and

maintenance area for the one (1)-hour standard.
RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1320–1326). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments on this rulemaking: one (1) from department staff and two (2) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory obligation had become discretionary in subsection (4)(C). The proposed amendment would modify the language of that requirement from "shall" to "will." Because those terms may have different legal effect, the change may be misinterpreted.
RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to retain the rule text in the first sentence of subsection (4)(C) rather than incorporating the proposed change in order to clarify the intent of the regulation.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 stating the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(1): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)), describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.
RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #3: The EPA recommends that the department consider revising its definition of "Precursor of a criteria pollutant" for fine particulate at subparagraph (2)(DD)3.C. and 10 CSR 10-6.020 Definitions so that it includes volatile organic compounds (VOCs) and ammonia as precursor pollutants for particulate matter less than 2.5 micrometers in diameter ($PM_{2.5}$) in accordance with the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements; Final Rule (81 FR 58010).
RESPONSE: As October 2, 2018, there are no nonattainment or maintenance areas for any of the currently effective $PM_{2.5}$ standards. The department will provide a precursor demonstration for VOC and/or ammonia when designated nonattainment for a $PM_{2.5}$ NAAQS, as required by the SIP requirement.

10 CSR 10-6.300 Conformity of General Federal Actions to State Implementation Plans

(4) Reporting and Record Keeping.
(C) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information is controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect restricted information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a restricted information annex to the determination for review by federal and state representatives who have received appropriate clearances to review the information.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.380 Control of NO_x Emissions From Portland Cement Kilns **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1326–1328). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6,

2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: There is a reference in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-6.380. As a result of this comment, no changes were made to the rule text.

COMMENT #3: The EPA encourages the department to reconsider adding a reference to 10 CSR 10-6.030(22) in section (5) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the Code of Federal Regulations by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1–6, where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 20-4.010 Construction Grant and Loan Priority System **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1596). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center (FAC) provided testimony on the proposed rescission. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1596–1598). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. The department received one (1) comment at the Public Hearing, one (1) typographical error was found by staff and one (1) comment was received during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in subsection (2)(E) to retain the word "shall" in order to clarify the department's obligation.

COMMENT #2: Staff identified a typographical error in subsection (2)(D). The language was incorrectly proposed as "640.620, RSMo, or".

RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting this error with the language "section 640.620, RSMo,"

COMMENT #3: Ms. Lacey Hirschvogel, with the Missouri Public Utility Alliance (MPUA), commented on new section (5). She questioned why the repayment schedule would be based upon a thirty (30) year depreciation if a community elected to transfer ownership of a financed facility. Ms. Hirschvogel also explained that this change places additional financial burdens on grant recipients subject to this

provision and does not reduce regulatory burden.
RESPONSE AND EXPLANATION OF CHANGE: The department proposed this new section to clarify the procedures for when a state grant financed facility is sold. However, the proposed language does not fully clarify these procedures, as noted by the comment. Therefore, the department is adding the language from the comment, along with additional language not specified in the comment, to further clarify the procedures. A change has been made to this rule as a result of this comment.

10 CSR 20-4.030 Grants for Sewer Districts and Certain Small Municipal Sewer Systems

(2) Eligibility Requirements.
(D) Grants will be the lesser of the per connection amount specified in section 640.620, RSMo, fifty percent (50%) of the eligible costs of the improvements, or five hundred thousand dollars ($500,000).
(E) Grants shall be used for the following costs:
1. Construction costs for the installation of new sewer collection lines, lift stations, and associated facilities required to serve an unsewered area. House laterals are not eligible;
2. Construction costs for the installation, rehabilitation, or upgrade of a wastewater treatment facility as specified in subsection (2)(C);
3. Engineering services and other services incurred in preparing the design drawings and specifications for the project. Such services must have been procured in accordance with state law to be eligible costs.

(5) If at any time after initiation of operations of the project, the wastewater treatment works funded under this rule, or any part thereof, is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, the original loan repayment period or a twenty- (20-) year straight line depreciation schedule in the event of grant only funds, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership of the facility(ies).

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.040 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1598–1609). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center (FAC) staff provided testimony on the proposed amendment. One (1) comment was made at the public hearing, three (3) comments were received during the public comment period and two (2) comments were received from staff.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Department staff identified an error of the word "major" being omitted from subsection (2)(F), in the definition of initiation of operations.
RESPONSE AND EXPLANATION OF CHANGE: The department is modifying the language to provide clarity to the rule.

COMMENT #3: Department staff identified typographical and grammatical errors in the following sections:
(7)(C) "40 CFR 35.3135" should be "40 CFR 35.3145";
(14) "occurs" should be "occur";
(16) "user charge," should be "user charge" and "User charge," should be "User charge";
(17)(H) "290.210-290.340" should be "sections 290.210 to 290.340";
(21)(B)19. "publicly-owned" should be "publicly owned";
(21)(B)20. "assessments" should be "assessment" and "long term" should be "long-term";
(26) "RMSo." should be "RSMo";
(27) "fifteen pages" should be "fifteen (15) pages"; and
(27)(C) "and," should be "and".
RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the errors.

COMMENT #4: Comment from Ms. Lacey Hirschvogel, Missouri Public Utility Alliance (MPUA). Ms. Hirschvogel commented that the provision in new subsection (25)(B) stating "Once the loan repayment is complete, ownership of facilities, equipment, and real property purchased under the program with a current value in excess of five thousand dollars ($5000) may be transferred only with written permission of the department" provides an administrative burden on both the department and borrowers with limited ability to track and enforce this requirement. Ms. Hirschvogel further requested either i) this provision be deleted or ii) the phrase "Once loan repayment is complete," be replaced with "During the loan repayment term."
RESPONSE AND EXPLANATION OF CHANGE: Staff have researched this matter and agree with the suggested revision. Similar language is included in the Purchase Agreement for recipients of Clean Water State Revolving Fund (CWSRF) loans. The provision in the Purchase Agreement about selling the wastewater treatment system is moot once the loan is paid back in full. Therefore, department permission is unnecessary. A change has been made as a result of this comment.

COMMENT #5: Ms. Hirschvogel, with MPUA, commented on the new subsection (25)(C). She questioned why the repayment schedule would be based on a thirty- (30-) year depreciation schedule if the CWSRF financed facility was sold. Ms. Hirschvogel commented this change places additional financial burdens on grant recipients subject to this provision and it does not reduce regulatory burden. She further stated that many projects may not have a thirty- (30-) year useful

life. Ms. Hirschvogel requested this provision be modified to use a depreciation schedule of the longer of i) twenty (20) years or ii) the original repayment term of the loan.

RESPONSE AND EXPLANATION OF CHANGE: The department proposed this new subsection to clarify the procedures for when a CWSRF financed facility is sold. However, staff agree further clarification is needed. Therefore, the department is adding the language from the comment, along with additional language not specified in the comment, to further clarify the procedures. A partial change has been made to this rule as a result of this comment.

COMMENT #6: Ms. Hirschvogel, with MPUA, requested that the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, only apply to projects that have been deemed to be "equivalency" projects. Ms. Hirschvogel explained that making the equivalency cross-cutters apply to a smaller subset of projects would reduce regulatory burden and has the potential to increase the amount of eligible costs that can be funded through the CWSRF program. Ms. Hirschvogel requested that the department consider adding language similar to what is being proposed in 10 CSR 60-13.020(C)(7) to develop a policy to exempt certain cross-cutter requirements for non-equivalency requirements.

RESPONSE: The department disagrees that the Uniform Relocation and Real Property Acquisition Policies Act should only apply to projects that have been selected as equivalency per the federal Capitalization Grant. Federal Law (49 CFR 24.101(b)) states that the requirements of the Uniform Relocation and Real Property Acquisition Policies Act apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the specific acquisitions. Therefore, recipients of CWSRF financing are required to comply with the Uniform Relocation and Real Property Acquisition Act if they want to be reimbursed for the property through the CWSRF program. The department further does not support adding the language similar to what is being proposed in 10 CSR 60-13.020(C)(7) because developing a policy exempting certain cross-cutters would contradict federal law. Therefore, no changes were made as a result of this comment.

10 CSR 20-4.040 Clean Water State Revolving Fund General Assistance Regulation

(2) Definitions. The definitions of terms for 10 CSR 20-4.040–10 CSR 20-4.050 are contained in 10 CSR 20-2.010 and subsections (2)(A)–(N) of this rule.

(F) Initiation of operation—The date when the first major constructed component is capable of being used for its intended purpose.

(7) General CWSRF Assistance Requirements. The commission will prioritize potential CWSRF projects by assigning priority points in accordance with the CWSRF Priority Point Criteria established per subsection (29)(A) of this rule.

(C) For equivalency projects, the recipient and its contractors must comply with all requirements associated with funds provided under 40 CFR 35.3145.

(14) Public Participation. Public participation must be preceded by timely distribution of information and occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action. Public participation shall include the following:

(16) User Charge and Sewer Use Ordinance. Recipients are required to maintain, for the useful life of the treatment works, user charge and sewer use ordinances approved by the department. User charge and sewer use ordinances, at a minimum, shall be adopted prior to financing and implemented by the initiation of operation of the financed wastewater treatment works.

(17) Specifications. The construction specifications must contain the features listed in the following:

(H) State Wage Determination. The bid documents shall contain the current prevailing wage determination issued by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards as established by sections 290.210 to 290.340, RSMo;

(21) Classification of Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under programs supported by this regulation and 40 CFR part 35 subpart I, including Appendix A.

(B) Eligible Costs. Eligible costs include, at a minimum:

1. Engineering services and other services incurred in planning and in preparing the design drawings and specifications for the project. For invoice reimbursement, the department must have a copy of the executed engineering contract for planning and design of the project;

2. The cost incurred pursuant to a contract for building those portions of the project which are for treatment of wastewater, correction of I/I, or for new interceptor sewers. These costs include change orders within the allowable scope of the project and the costs of meritorious contractor claims for increased costs under sub agreements;

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

A. Office engineering;

B. Construction surveillance;

C. Stakeout surveying;

D. As-built drawings;

E. Special soils/materials testing;

F. Operation and maintenance manual;

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

H. User charge and sewer use ordinance; and

I. Plan of operation;

4. Demolition costs. The reasonable and necessary cost of demolishing publicly owned WWTF's which are no longer utilized for wastewater collection, transportation, or treatment purposes. The reasonable and necessary cost of demolishing privately-owned WWTF's which will be eliminated or replaced by a publicly-owned treatment works if the proposed elimination was addressed in the approved facility plan. Generally, these costs will be limited to the demolition and disposal of the structures, removal and disposal of biosolids, final grading, and seeding of the site;

5. Equipment, materials, and supplies.

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

B. Cost of shop equipment installed at the treatment works necessary to the operation of the works.

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

D. The costs of mobile equipment necessary for the operation of the overall wastewater treatment facility, transmission of wastewater or sludge, or for the maintenance of equipment. These items include:

(I) Portable standby generators;

(II) Large portable emergency pumps to provide pump-around capability in the event of pump station failure or pipeline breaks; and

(III) Trailers and other vehicles having as their purpose the transportation, application, or both, of liquid or dewatered sludge or septage;

E. The cost of a reasonable inventory of replacement parts identified and approved in advance for new wastewater treatment facilities;

6. Land or easements required to complete the project. In order to be eligible for reimbursement, land must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91- 646, as amended. Certification by the recipient of compliance under this Act is required;

7. The cost of I/I correction, other than normal maintenance costs, and treatment works capacity adequate to transport and treat I/I;

8. Purchase of a private wastewater system, provided the project will eliminate or upgrade the existing facilities. The purchase of a private wastewater system must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91- 646, as amended. Certification by the recipient of compliance under this Act is required;

9. The cost of preparing environmental documentation required under 10 CSR 20-4.050;

10. Nonpoint source projects as identified in the most current Missouri Nonpoint Source Management Plan;

11. Construction permit application fees, costs of issuance, capitalized interest, and contracted project administration costs;

12. Debt service reserve deposits;

13. Collector sewers provided that they meet the requirements of either—

A. For major rehabilitation or replacement of collection sewers that are needed to assure the total integrity of the system; or

B. New collector sewers for existing communities where sufficient treatment capacity exists or adequate treatment will be available when collectors are completed;

14. Correction of combined sewer overflows;

15. House laterals if they lie within the public easement and will be maintained by the recipient;

16. Storm water transport and treatment systems, and nonpoint source best management practices;

17. Third party costs, incurred under a contract, associated with preparing a fiscal sustainability plan;

18. Energy conservation projects that reduce energy consumption including energy efficient equipment and certain renewable energy facilities;

19. Water conservation projects that reduce demand for publicly owned water treatment works including water meters, water efficient appliances, education programs, and incentive programs; and

20. Planning and assessment activities including asset management plans, capital improvement plans, integrated planning, long-term control plans, water or energy audits, treatment works security and safety plans, or environmental management systems.

(25) Disposition of Treatment Works. The recipient must receive the written consent of the department prior to the disposal of the wastewater treatment works or any material part thereof financed or refinanced with the proceeds of a loan.

(B) During the loan repayment term, ownership of facilities, equipment, and real property purchased under the program with a current value in excess of five thousand dollars ($5,000) may be transferred only with written permission of the department.

(C) If at any time after initiation of operations of the project, the wastewater treatment works funded with a CWSRF grant, or any part thereof, is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, the original loan repayment period or a 20-year straight-line depreciation schedule in the event of grant only funds, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership.

(26) Procurement of Design-Build Services. The procurement of design-build services shall be in accordance with section 67.5060, RSMo. Recipients that are exempt from section 67.5060, RSMo may also utilize design-build services if local ordinances or policies allow design-build and the procurement of the design-build team considers both the qualifications of the team and the project selected meets the cost effectiveness requirements of subsection (10)(B). Recipients seeking funds for a project utilizing design-build services must notify the department with the recipient's CWSRF application. Recipients that utilize design-build services shall coordinate procurement activities with the department to ensure compliance with CWSRF requirements. The department may restrict the amount of funding available for projects using design-build services, if needed to comply with federal law and regulations.

(27) Plan of Study. Facility planning loans, not to exceed a five (5) year repayment term, or grants may be provided by the commission to applicants with an existing publicly owned wastewater system. Applicants that desire to receive a loan for facility planning must submit a plan of study. The plan of study should include the following information (generally in fifteen (15) pages or less):

(C) The nature and scope of planning, including a description of the need for the project, and facilities planning tasks and schedule; and

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.041 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1609–1611). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. The department received one (1) comment during the public comment period and staff identified two (2) typographical and grammatical errors.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder

engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in section (5) and in subsection (6)(A) to retain the word "shall" in order to clarify the department's obligation.

COMMENT #2: Staff identified typographical and grammatical errors in the following sections:
(8) "(8)(A)–(E)" should be "(8)(A)–(D)"; and
(9) "(.5%) for" should be "(.5%) of the outstanding loan balance for".
RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting the errors.

10 CSR 20-041 Direct Loan Program

(5) Interest Rates. The department shall use the target interest rate (TIR) policy as established by the commission under section (4) of 10 CSR 20-4.040.

(6) Reimbursement Terms.
(A) The maximum reimbursement shall be no more than the sum of all eligible costs incurred to date. Each payment request shall include the information listed in the following paragraphs (6)(A)1.–3. and other information deemed necessary by the department to insure proper project management and expenditure of public funds:
1. Completed reimbursement request form;
2. Construction pay estimates signed by the construction contractor, the recipient, and the consulting engineer, if applicable; and
3. Invoices for other eligible services, equipment, and supplies for the project.

(8) Amortization Schedules. The guidelines contained in the following subsections (8)(A)–(D) are to be used to establish amortization schedules under this rule:

(9) Loan Fees. The department may charge annual loan fees not to exceed one-half percent (.5%) of the outstanding loan balance for state direct loans. CWSRF direct loan recipients will be charged a fee on the loan in accordance with 10 CSR 20-4.040(5).

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 20-4.042 Leveraged Loan Program **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1611). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center (FAC) provided testimony on the proposed rescission. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1611–1615). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center provided testimony on the proposed amendment. One (1) typographical error was identified by the department, one (1) comment was received at the public hearing and the department received nineteen (19) additional comments during the public comment period.

COMMENT #1: Department staff identified a grammatical error in subsection (5)(A). The language was written as "When the director has determined that an recipient's proposed project may be excluded from a formal environmental review, the director will prepare a determination to categorically exclude the project."
RESPONSE AND EXPLANATION OF CHANGE: "An" was changed to "a" in subsection (5)(A) to correct the error.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in paragraph (4)(B)2., in order to clarify the department's obligation.

COMMENT #3: Karen Lux, Kathleen Dolson, Francine Glass, Stacy Cheavens, Tyler Harrison, Paulette Zimmerman, C. Wulff, Dana Gray, Laurie Lakebrink, Denise Baker, Barry Leibman, Joyce Wright, Tom Abeln, Arlene Sandler, Jeanne Heuser, and Maisah Khan with Missouri Coalition for the Environment (MCE) commented that changes to this rule could remove language about the requirements for public hearings and public access to documents related to new projects. All commenters requested the department does not

change 10 CSR 20-4.050.
RESPONSE AND EXPLANATION OF CHANGE: The change to 10 CSR 20-4.050(4)(B)2. does not remove the requirement that a recipient advertise and host a forum for public participation or remove public access to documents. Per the amendment, it will allow the recipient to choose to host either a public hearing or a public meeting advertised at least thirty (30) days in advance in the local newspaper of general circulation. The amendment does propose to remove the requirement that the recipient send "a notice of the public hearing and availability of the documents to all local, state, and federal agencies and public and private parties that may have an interest in the proposed project." However, interested parties will be made aware of the meeting through the newspaper advertisement, and may access documents by attending the meeting or by contacting the department to request such documents." Changes to this rule are being made for clarification.

COMMENT #4a: Caroline Pufalt, Sierra Club MO commented that she opposed removing the language about the requirements for public hearings and public access to documents related to new projects.
RESPONSE: The change to 10 CSR 20-4.050(4)(B)2. does not remove the requirement that a recipient advertise and host a forum for public participation or remove public access to documents. Per the amendment, it will allow the recipient to choose to host either a public hearing or a public meeting advertised at least thirty days in advance in the local newspaper of general circulation. The amendment does propose to remove the requirement that the recipient send "a notice of the public hearing and availability of the documents to all local, state and federal agencies and public and private parties that may have an interest in the proposed project." However, interested parties will be made aware of the meeting through the newspaper advertisement, and may access documents by attending the meeting or by contacting the Department to request such documents." Changes to this rule are being made for clarification.

COMMENT #4b: Ms. Pufault further commented on 10 CSR 20-4.050(7) stating that the department should evaluate the environmental reviews accepted by other agencies to make sure it considers all relative issues.
RESPONSE: All agencies that provide federal funds, such as those offering Community Development Block Grants and U.S. Department of Agriculture funds are subject to the provisions of the National Environmental Policy Act of 1969, as amended (NEPA), which established national policies, goals, and procedures for protecting, restoring, and enhancing environmental quality. Thus, all environmental reviews accepted by DNR than have been approved by another agency will comply with NEPA. This amendment allows a recipient planning a project co-funded through the State Revolving Fund and one of the named entities to avoid duplication of effort and unnecessary increased cost. No changes have been made to this rule as a result of these comments.

COMMENT #5: A comment was made anonymously stating difficulty finding rule text.
RESPONSE: During the comment period time, the proposed rule was located on the DNR Web page, along with all other proposed amendments, through a link titled "Rules in Development" under the main tab "Laws and Regulations," it was published in the *Missouri Register* dated July 16, 2018, and a copy was linked in the department's Regulatory Action Tracking System. No changes have been made to this rule as a result of these comments.

10 CSR 20-4.050 Environmental Review

(4) Environmental Information Required for Environmental Review.
(B) An EID must be submitted by those recipients whose proposed projects do not meet the criteria for a CE and for which the director has made a preliminary determination that an EIS will not be required. The director will provide guidance on both the format and contents of the EID to potential recipients prior to initiation of facilities planning.
1. At a minimum, the contents of an EID will include:
A. The purpose and need for the project;
B. Information describing the current environmental setting of the project and the future environmental setting without the project;
C. The alternatives to the project as proposed;
D. A description of the proposed project;
E. The potential environmental impacts of the project as proposed including those which cannot be avoided;
F. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity;
G. Any irreversible and irretrievable commitments of resources to the proposed project;
H. Proposed mitigation measures to minimize the environmental impacts of the project;
I. A description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and
J. Documentation of coordination with appropriate governmental agencies.
2. Prior to the recipient's adoption of the facilities plan, the recipient must hold a public meeting or hearing on the proposed project and the EID, and provide the director with a complete record of the meeting or hearing, including all EID reference documents. The meeting or hearing must be advertised at least thirty (30) days in advance in a local newspaper of general circulation. Included with the meeting record must be a list of all attendees with addresses, any written testimony and the recipient's responses to the issues raised.

(5) Environmental Determination.
(A) When the director has determined that a recipient's proposed project may be excluded from a formal environmental review, the director will prepare a determination to categorically exclude the project.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.061 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1615–1618). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center (FAC) staff provided testimony on the proposed amendment. The department received one (1) comment at the Public Hearing, one (1) comment during the public comment period, the department identified one (1) paragraph that needed to be deleted and one (1) grammatical error.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the

word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: A comment was made anonymously stating difficulty finding rule text.
RESPONSE: During the comment period time, the proposed rule was located on the DNR Web page, along with all other proposed amendments, through a link titled "Rules in Development" under the main tab "Laws and Regulations", it was published in the *Missouri Register* dated July 16, 2018, and a copy was linked in the department's Regulatory Action Tracking System. No changes have been made to this rule as a result of these comments.

COMMENT #3: In paragraph (5)(B)12., the department staff discovered the paragraph needed to be deleted since we no longer administer grant anticipation loans.
RESPONSE AND EXPLANATION OF CHANGE: The department is deleting the paragraph as a result of this comment.

COMMENT #4: Staff found grammatical errors in section (14), "storm water" should be "storm water loan" in two (2) places.
RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting the errors.

10 CSR 4.061 Storm Water Grant and Loan Program

(5) Eligible Project Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under the Storm Water Grant and Loan Program.
(B) Eligible Costs. Eligible costs include at a minimum:
1. Costs for development of a comprehensive storm water control plan meeting the requirements of subsection (3)(D);
2. Engineering services for planning and design based on invoiced amounts for a contracted engineering consultant. A copy of the approved engineering agreement must be submitted to the department or delegated entity when engineering services are to be reimbursed with grant or loan funds. The contract should be a lump sum or cost plus fixed fee contract in the form of a bilaterally executed written agreement.
3. Costs for construction-related engineering when invoiced per an acceptable two (2)-party engineering agreement;
4. Construction costs including construction permits as issued by the department;
5. Land purchase or permanent easement costs required for storm water holding basins, grass-lined channels, or for other limited structural storm water control projects, or buy-outs if the land purchased is restricted such that no permanent structure except for structures allowed under the Missouri Statewide Comprehensive Outdoor Recreation Plan (SCORP) may be constructed within the easement or purchase area. Construction costs related to holding basins on private land are eligible if the eligible recipient retains a permanent easement, is legally responsible for operation and maintenance of the facility, and the basin constructed is clearly for storm water control and not recreational use;
6. Costs of force account work for planning, design, construction, construction engineering, and costs of rented or leased equipment. It does not include the costs of recipient-owned equipment or the costs of administration for grants and loans. Engineering performed by force account must meet the requirements of 10 CSR 20-4.061(9) which state that storm water plan preparation, design, and inspection must be provided by a registered professional engineer or by a person under the direct and continuing supervision of a registered professional engineer. To be considered for force account, the following information must be submitted for review and approval by the department prior to beginning on the project:
A. Which project(s) they intend to do with city employees;
B. The names of the employees who will be working on the project;
C. A specific time code must be assigned to each project. The letter should state the time code number;
D. For engineering work, the letter must contain an assurance that the employee is a registered professional engineer or the name of the professional engineer who directly supervises this person;
E. The hourly wage for each individual must be given. If the person is salaried, this is the total annual salary divided by two thousand and eighty (2,080) hours. The hourly wage cannot include fringe or indirect costs; and
F. A copy of the time card that will be used. The time card must list the employee name, project time code, hours worked, and the signature of the employee and the supervisor. Should there be a change in employees, salary, or engineering supervisor during the course of the project, the recipient must amend/update the information in the original letter before that salary and/or employee cost can be reimbursed;
7. Demolition costs of structures located within storm water control areas provided future development of permanent structures in the storm water control area is restricted;
8. Local cost of issuance and capitalized interest incurred on loans administered under this rule;
9. Up to five (5) sequential years of grant and/or loan funding may be used for the same project if it meets the following criteria:
A. The contract is awarded within the time frame necessary to receive the first grant and/or loan of the sequence;
B. The recipient certifies that there are adequate funds committed from other sources to complete the construction;
C. The recipient commits to the original funding combination for the entire sequence of grants and/or loans; and
D. The recipient certifies that the project will be completed with or without the subsequent years' grant/loan funds.
10. Costs associated with minimizing storm water damage to sink holes; and
11. The reasonable costs of administrative fees incurred by a delegated entity in connection with each grant.

(14) Storm Water Loan Revolving Fund. Storm water grants and loans may be awarded from the storm water loan revolving fund as funds are available. Eligible applicants must be a municipality, county, public sewer district, public water district, or a combination of the same. Except for subsections (3)(A)–(C), all provisions of this regulation apply to grants and loans made from the storm water loan revolving fund.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1618–1629). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Mr. Robert Brundage with Newman, Comley, and Ruth, and Mr. Kevin Perry with Regulatory Environmental Group for Missouri (REGFORM) provided comments during the public hearing. The department received three (3) comment letters during the public comment period, plus department staff comments.

PUBLIC COMMENTS:
COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing, and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review changes have been made to the following: Sections (1), (2), (3), (5),(7), (9), (11), and (15) (see attached).

COMMENT #2: Department staff commented that the language in 10 CSR 20-6.010(1)(A) should reference section (5) not (4).
RESPONSE AND EXPLANATION OF CHANGE: The rule language has been updated with the correct reference to section (5).

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on the proposed change in subsection (1)(B), which states: "(B) The following are exempt from this rule." This subsection says exemptions only apply to "this rule" instead of "permit regulations" as provided in the current regulation. As proposed, this exemption may only apply to discharging facilities and not to non-discharging facilities. There is a rinsate exemption under 6.010(1)(B) but not under the no-discharge regulation 6.015. An unintended consequence could be that a no-discharge permit may be required for rinsate even though exempted under "this rule." If the language were not changed and continues to refer to "permit regulations," it would better clarify that the exemption applies to any permit, both discharging and non-discharging facilities.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (1)(A) requires all facilities to have a permit in accordance with sections (5) and (7) of this rule and with the Missouri Clean Water Law and regulations. The list in subsection (1)(B) is activities exempted from the permitting requirements in subsection (1)(A). There are multiple rules concerning permits and to clarify the exemptions provided in subsection (1)(B) cover activities that may be discussed in other rules, specifically the other rules in 10 CSR 20-6, the rule language was returned to the existing rule language of "permit regulations."

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth, provide comment on the exemption of internal plumbing changes and that the requirement that they do not discharge to waters of the state creates confusion. In his comment, Mr. Brundage explains that the exemption would be limited as it does not allow internal plumbing changes where water that flows through these plumbing changes is eventually discharged to a permitted outfall to waters of the state.
RESPONSE AND EXPLANATION OF CHANGE: The exemption applies to internal piping and plumbing changes that do not have a discharge. At some facilities, there are internal areas that have an emergency spillway or overflow application that can discharge to waters of the state. Changes to these areas would not be exempt. For clarification, the rule language has been reworded to state the exemption applies except to the point where effluent is conveyed to receiving waters.

COMMENT #5: Mr. Stanley Thessen with MFA and Mr. Robert Brundage with Newman, Comley, and Ruth, provided comments on the exemption for the application of rinsates. They noted that it applies to agrichemical rinsates and that the exemption should include fertilizers.
RESPONSE AND EXPLANATION OF CHANGE: The term agrichemical was added to limit the exemption to agrichemical rinsates. As a result of this comment fertilizer was added to the exemption, so that the exemption now applies to fertilizers and pesticide rinsates applied appropriately.

COMMENT #6: Mr. Kevin Perry with REGFORM provided comments supporting the exemption of *de minimis* hydrostatic testing proposed in (1)(B)10., and requests the Clean Water Commission (CWC) adopt it.
RESPONSE: The department appreciates the support. No change was made as a result of this comment.

COMMENT #7: Department staff noted that there was a grammatical mistake in subsection (2)(B) and the incorrect reference in paragraph (2)(B)2. related to continuing authority. Additionally, a change in rule language was needed to (2)(B)5.C.
RESPONSE AND EXPLANATION OF CHANGE: The grammatical mistake in subsection (2)(B) was corrected and the reference in paragraph (2)(B)2. was corrected to subsection (2)(F). The rule language in subparagraph (2)(B)5.C. was updated.

COMMENT #8: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comments on paragraph (2)(B)5. pertaining to Level 5 authority which are property owners associations. The existing permit language refers to "covenants on the land" and that the proper legal term is covenants "running with the land."
RESPONSE AND EXPLANATION OF CHANGE: The term "running with the land" has been added and the existing language removed.

COMMENT #9: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comments on the requirement that industries submit a "statement waving preferential status from each existing higher preference authority," stating that there may not be an existing higher preferential authority. Mr. Brundage also commented that as the rule is written, this requirement seems to require an industry to provide the waiver instead of the higher preferential authority providing the waiver. He suggested rewording it to state, "… submit from each existing higher preference authority a statement waving preferential status.…"
RESPONSE AND EXPLANATION OF CHANGE: The rule language has been updated to clarify that a waiver is from the higher preferential authority if it is available. The submittal of the waiver is part of the industry's permitting application.

COMMENT #10: Department staff commented that the reference in (2)(F) on Level 2 Continuing Authority has an incorrect reference in paragraphs (2)(F)4. and (2)(F)5.

RESPONSE AND EXPLANATION OF CHANGE: The incorrect reference in (2)(F)4. and (2)(F).5 were corrected to reference (2)(F)2. and (2)(F)1.–4.

COMMENT #11: Mr. Robert Brundage with Newman, Comley, and Ruth, commented under the Antidegradation section of the rule (Section 3), that language regarding the appeal process should be included in the rule to provide the permittee notice of their rights. Mr. Brundage also commented that a written determination should be provided on the applicability of the antidegradation review.
RESPONSE AND EXPLANATION OF CHANGE: The language regarding the antidegradation appeal process was removed as it is already incorporated by reference in 10 CSR 20-7.031(3) in the Antidegradation Implementation Procedure. A statement that the department will provide written determination of antidegradation applicability has been added to the subsection to clarify and to provide consistency with other sections of the rule that state the department will provide written determinations.

COMMENT #12: Department staff commented on a grammatical mistakes in paragraphs (4)(A)2. and (4)(B)5. Additionally, the reference in (4)(B)2. references the design guides in 10 CSR 20-8, and it should reference the design standards.
RESPONSE AND EXPLANATION OF CHANGE: The rule has been updated to correct paragraphs (4)(A)2. and (4)(B)5. and the reference in (4)(B)2. reflects the design standards in 10 CSR 20-8.

COMMENT #13: Department staff commented that the language in 10 CSR 20-6.010(4)(A)5.D. should be clarified to state that Geohydrological evaluations should be conducted for all major modifications of earthen basins.
RESPONSE AND EXPLANATION OF CHANGE: The rule language has been updated to clarify that Geohydrological evaluations will be conducted on major modification of earthen basins.

COMMENT #14: Department staff commented that the reference in (4)(B) is incorrect for projects not requiring engineering reports and/or facility plans are not required for sewer extensions covered under the general permit or for exempted projects.
RESPONSE AND EXPLANATION OF CHANGE: The internal reference to projects exempt from construction permitting has been corrected to (5)(B) and the sewer extension general permit has been corrected to (5)(C).

COMMENT #15: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comments on the exemptions in section (5) noting there may be confusion with subsection (A) which is the activities that require permits, and subsection (B) which are the exemptions. The example he provided was related to Class I Concentrated Animal Feeding Operations (CAFOs) who do not construct an earthen basin - they are exempt from construction permits. However, in subsection (B) it states Class II CAFOs are exempt. He requests that since there is no reference to, or language similar to, the requirements and exemptions described in section 644.051.3, RSMo, that the language be revised to state in subsection (B) that all activities not referenced in subsection (A) are exempt.
RESPONSE: All Class II CAFOs are currently exempt from construction permitting requirements. Class I CAFOs, if constructing an earthen basin, are required to obtain a construction permit, which is what paragraph (5)(A)3. is stating. The majority of the exemptions listed in subsection (5)(B) have been identified as activities that would require a construction permit under subsection (5)(A) of the rule in that they are modifications to treatment systems, but the review of such would not provide much in environmental protections. The language and listing of exemptions was discussed in the stakeholder meetings and the language specific to CAFO operations was added for clarification at the request of stakeholders. No changes were made as a result of this comment.

COMMENT #16: Mr. Kevin Perry with REGFORM provided comments in support of the exception of activities that require a construction permit proposed in (5)(B) of this rule, including its subsections and a request that the CWC adopt these exceptions.
RESPONSE: The department appreciates the support. No changes were made as a result of this comment.

COMMENT #17: Department staff commented on the grammatical errors in the reference to statute in subsection (5)(B), in the wording in paragraphs (5)(B)2., (5)(E)2., subsection (5)(G), paragraph (5)(H)3. and subsection (5)(M). Additionally, an extra "," was noted in paragraph (5)(H)2. and the reference in subsection (5)(M) to Antidegradation public comment procedures is incorrect.
RESPONSE AND EXPLANATION OF CHANGE: The references in subsections (5)(B) and (5)(M) were corrected. Paragraphs (5)(B)2., (5)(E)2., subsections (5)(G), (5)(H), and (5)(M) were corrected.

COMMENT #18: Department staff commented that the references in (7)(B)1.E. to variances, in (7)(D) to general permit applications, and in (7)(E) to signatures were incorrect.
RESPONSE AND EXPLANATION OF CHANGE: The reference in (7)(B)1.E. has been updated to reference section (15), the reference in (7)(D) has been updated to reference the correct subsection of the statute, and the reference in (7)(E) has been corrected to reference (7)(B)2.

COMMENT #19: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comment under the operating permit sections that the operating permits are issued to the owner and the continuing authority. In his comment letter, he stated there is no legal authority to require an owner who has no operational control over the water contaminant or point source to obtain a permit or to be listed on the permit. He states the requirement is inconsistent with the definition of continuing authority and that it is not uncommon for the owner of the real estate or structures on the property to not have any control because it has leased the property to the continuing authority who is operating the facility. Mr. Brundage suggested this subsection should be revised as follows: "The operating permit shall be issued to the continuing authority."
RESPONSE: Permits are issued to the owners of the permitted activity, based on the information provided in the application. Ownership of real property is not a prerequisite for a permit. The department does not designate the contracts between the individuals and/or companies. The contract between the entities should designate the responsibilities for maintaining compliance. If an operation should be in noncompliance, the department has the responsibility to ensure the violations are resolved by the permittee and continuing authority. No changes were made as a result of this comment.

COMMENT #20: Department staff commented that in (8)(A)9., the reference to closure plans in section (11) should be section (12). Additionally it was noted an incorrect reference in subsection (12)(D) referenced the incorrect section of the rule.
RESPONSE AND EXPLANATION OF CHANGE: The rule has been updated to reflect the correct reference to closure plans in section (12).

COMMENT #21: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comment on subsection (10)(B) that there are instances where an owner wants to shut down the business but not permanently eliminate the wastewater treatment facility in the event that it could be restarted in the future, but the rule requires a wastewater treatment facility or point source to be permanently eliminated before the permit can be terminated.
RESPONSE: With regard to termination of an operating permit, the requirement is to eliminate the potential releases from a water contaminant, point source, or wastewater treatment plant, as specified in 644.051.2 and 644.082, RSMo. No changes were made to the rule

as a result of this comment.

COMMENT #22: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comment on section (11) regarding the requirement that permittee/transferor/continuing authority and the transferee both sign an application transfer. In his letter, he provided an example that there may be instances where the current permittee is unable to sign the transfer application and as such the signature of the permittee/transferor should not be required.
RESPONSE: While signatures from both the previous permittee and the transferee is the preferred method, there are many instances where the existing permittee is unable to sign. The transferee or the new permittee needs to apply for a permit, which requires the permittee to demonstrate they are responsible for compliance with the terms and conditions of the permit. No changes were made to the rule as a result of this comment.

COMMENT #23: Department staff commented that the language in 10 CSR 20-6.010(11)(A)2. should reference section (5) not (4).
RESPONSE AND EXPLANATION OF CHANGE: The rule language has been updated with the correct reference to section (5).

COMMENT #24: Mr. Robert Brundage with Newman, Comley, and Ruth, provided a comment related to a closure plan requiring the contemplation of the removal of treatment structures. His comment is that removal of treatment structures should not be required, as they may be assets of value and have future use, and that the only requirement should be to remove any on-site pollutants that would have the potential to be released to waters of the state.
RESPONSE: The requirement of a closure plan does require the contemplation of the removal of treatment structures, but it does not require the removal. Structures can be and often are maintained at a facility, the only requirement is the removal of the potential for any water contaminant or point source, as stated in 644.051.2 and 644.082, RSMo. No changes were made to the rule as a result of this comment.

COMMENT #25: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comment on subsection (13)(D) that states "Any owner/continuing authority authorized by general operating permit… ." His comment was what does the "/" mean, does it mean "and" or "or" or "and/or?" He proposed that the term "owner" be deleted.
RESPONSE AND EXPLANATION OF CHANGE: The "/" was present in the existing rule. To clarify, the "/" has been removed and changed to owner and continuing authority.

COMMENT #26: Department staff noted a comma was missing and there was an extra word, "to," in subsection (13)(C).
RESPONSE AND EXPLANATION OF CHANGE: Subsection (13)(C) was corrected.

COMMENT #27: Department staff noted in subsections (14)(B), (14)(C), and (14)(E) referenced the wrong subsection for effluent limits for hydrostatic testing.
RESPONSE AND EXPLANATION OF CHANGE: Subsections (14)(B), (14)(C), and (14)(E) were updated to reference section (14)(A).

COMMENT #28: Department staff noted the word "section" was missing in front of the references to Missouri statutes in section (15).
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (15)(C)2. was updated to add section in front of the references to statute.

10 CSR 20-6.010 Construction and Operating Permits

(1) Permits—General.
(A) All persons who build, erect, alter, replace, operate, use, or maintain existing point sources, or intend these actions for a proposed point source, water contaminant sources, or wastewater treatment facilities shall apply to the Missouri Department of Natural Resources (department) for the permits required in accordance with sections (5) and (7) of this rule, the Missouri Clean Water Law and regulations. The department issues these permits to enforce the Missouri Clean Water Law and regulations and administer the National Pollutant Discharge Elimination System (NPDES) Program.
(B) The following are exempt from permit regulations:
1. Nonpoint source discharges;
2. Service connections to wastewater collection systems;
3. Internal plumbing, piping, water diversion, or retention structures that are an integral part of an industrial process, plant or operation, except to the point wastewater is conveyed to receiving water;
4. Routine maintenance or repairs of any existing collection system, wastewater treatment facility, or other water contaminant or point source;
5. Onsite systems for single family residences;
6. The discharge of water from an environmental emergency cleanup site under the direction of, or the direct control of, the department or the Environmental Protection Agency (EPA), provided the discharge does not violate any condition of 10 CSR 20-7.031 Water Quality Standards;
7. Water used in constructing and maintaining a drinking water well and distribution system for public and private use, geologic test holes, exploration drill holes, groundwater monitoring wells, and heat pump wells;
8. Projects for beneficial use, that do not exceed a period of one (1) year, may be exempted by written project approval from the department. The department may extend the permit exemption for up to one (1) additional year.
9. The application of pesticides in order to control pests (e.g., any insect, rodent, nematode, fungus, weed, etc.) in a manner that is consistent with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Missouri Pesticide Use Act unless such application is made directly into or onto waters of the state, in which case the applicator shall obtain a permit;
10. Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new pipelines and storage tanks in the state of Missouri may discharge to waters of the state without first obtaining a permit if the discharge is de minimis (less than one thousand (<1,000) gallons) or meeting the requirements in section(14) of this rule;
11. Nondischarging earthen basins for domestic wastewater flows of three thousand gallons per day (3,000 gpd) or less; and
12. Agrichemical rinsates and any spilled or recovered fertilizers and pesticides that are field applied at rates compatible with product labeling.

(2) Continuing Authorities.
(B) Continuing authorities are listed in preferential order in the following paragraphs. A level three (3), four (4), or five (5) applicant may constitute a continuing authority by showing that the authorities listed under paragraphs (B)1.–2. of this rule are not available; do not have jurisdiction; are forbidden by state statute or local ordinance from providing service to the person; or that it has met one of the requirements listed in paragraphs (2)(C)1.–7. of this rule.
1. Level 1 Authority. A municipality or public sewer district or governmental entity which has been designated as the area-wide management authority under section 208(c)(1) of the Federal Clean Water Act;
2. Level 2 Authority. A municipality, public sewer district, or governmental entity which currently provides wastewater collection and/or treatment services on a regional or watershed basis as outlined in section (2)(F) of this rule and approved by the Missouri Clean Water Commission;
3. Level 3 Authority. A municipality, public sewer district, or

sewer company regulated by the Public Service Commission (PSC) other than one which qualifies under paragraph (2)(B)1. or 2. of this rule or a public water supply district. Permits shall not be applied for by a continuing authority regulated by the PSC until the authority has obtained a certificate of convenience and necessity from the PSC;

4. Level 4 Authority. Any person, industry, or group of persons contractually obligated to collectively act as a wastewater collection and treatment service, or nonprofit company organized under section 393.825, RSMo, with complete control of, and responsibility for the water contaminant source, point source, or wastewater treatment system.

5. Level 5 Authority. An association of property owners served by the wastewater treatment facility, provided the applicant documents that—

A. The association is a corporation in good standing registered with the Office of the Missouri Secretary of State.

B. The association owns the facility and has valid easements for all sewers;

C. The covenants running with the land of each property owner provide the authority with compliance of wastewater treatment systems including at a minimum:

(I) The power to regulate the use of the collection system and/or the wastewater treatment facility;

(II) The power to levy assessments on its members and enforce these assessments by liens on the properties of each owner;

(III) The power to convey the facility to one (1) of the authorities listed in paragraphs (2)(B)1.–3.; and

(IV) The requirement that members connect with the facility and be bound by the rules of the association.

(D) The Applicants for industries, shall submit a statement waiving preferential status from each existing higher preference authority, if it exists, listed in paragraphs (2)(B)1.,2., or 3. of this rule for collection and treatment of industrial, process, and domestic wastewater as part of a new operating permit application.

(F) Application of Level 2 Authority. If a municipality or public sewer district wishes to provide wastewater collection and/or treatment services on a regional or watershed basis as outlined in paragraph (2)(B)2. of this rule, the entity shall—

1. Submit a preliminary request to the Missouri Clean Water Commission through the department to obtain higher authority;

2. Develop a plan, which includes, but not limited to:

A. A discussion of regional treatment service;

B. Capital improvements program;

C. Process to provide waivers when sewer connection is not available;

D. Approach to address permit compliance with facilities in the service area;

E. Community financial capability information; and

F. Defined service area map.

3. Obtain and maintain authority through ordinances to compel wastewater users and facilities to connect for management of wastewater flows. The ordinance requires the recipient to notify all potential users of service availability and that all users connect to the system within the timeframe provided in the notice of service availability. Submit a copy of the enacted ordinance.

4. Provide a public meeting prior to approval of the plan developed according to paragraph (2)(F)2. of the rule and the draft ordinance. Distribution of information and the publication of the notice of decision making should occur for at least thirty (30) days. Following the public meeting, provide a copy of the transcript, attendance log, recording, or other complete record to the department.

5. Submits a final request to the Missouri Clean Water Commission through the department, containing the fulfillment of paragraphs (2)(F)1.-4. of this rule, incorporating preliminary recommendations provided by the Missouri Clean Water Commission.

6. Staff shall review the plan and present recommendations to the Missouri Clean Water Commission for action.

(3) Antidegradation. Applicants seeking new or expanded discharges shall submit an antidegradation review request.

(B) Public comment. The department shall place a public notice of the antidegradation determination on the department's website and allow the public an opportunity to provide comments for a minimum of thirty (30) days. The antidegradation determination may be revised as a result of comments received.

(C) Notification in writing. A final determination whether the antidegradation is applicable, approved, or denied shall be provided in writing to the applicant by the department.

(4) Facility Plans and Engineering Reports. Applicants seeking a construction permit shall submit a facility plan or engineering report unless otherwise designated by the department.

(A) Submit the engineering report and/or facility plan prior to submittal of the Construction Permit Application, including the following, as applicable:

1. A signed Facility Plan or Engineering Report. All facility plans and engineering reports are to be signed and sealed by a Missouri registered professional engineer, and contain the information in accordance with 10 CSR 20-8.

2. Identify the alternative technical manuals and design criteria utilized that are different from the design standards provided in 10 CSR 20-8.110 through 10 CSR 20-8.220.

3. Submit one (1) hard copy and an electronic version (in Portable Document Format (PDF) searchable format or department approved equivalent) for review.

4. For Engineering Reports,

A. Submit a plan of the existing and proposed sewers for projects involving new sewer systems and substantial additions to existing systems.

B. Submit a plan for projects involving construction or revision of pumping stations.

C. Provide the design basis and operating life.

5. For Facility Plans,

A. Submit an approved Water Quality Review and Antidegradation evaluation or determination for all new and expanding facilities, in accordance with 10 CSR 20-7.031(3). For non-funded projects, information submitted as part of the Antidegradation Report does not have to be resubmitted with the facility plan.

B. Evaluate the feasibility of constructing and operating a facility with no discharge to waters of the state if the report is for a new or modified wastewater treatment facility.

C. Evaluate the economics of the project including alternatives to constructing a discharging system, including an evaluation of alternatives of wastewater irrigation or subsurface dispersal and connection to a regional wastewater treatment facility.

D. A geohydrological evaluation conducted by the department's Missouri Geological Survey, for all proposed new construction, new or major modification of earthen basins, new outfall locations, wastewater irrigation fields, and subsurface dispersal sites. Include any recommendations provided in the geohydrological evaluation.

(B) Engineering reports and/or facility plans are exempt for the following non-funded projects:

1. Disinfection equipment projects for treatment types promulgated in 10 CSR 20-8.190;

2. Projects exempted from construction permitting under subsection (5)(B) of this rule;

3. Sewer extensions permitted under the general construction permit provided in subsection (5)(C) of this rule;

4. Sewer projects that submit a Missouri registered professional engineer's Sewer Extension Design Certification with the permit application; and

5. Treatment plants and/or sewer extensions by a permittee with their own authority under section (6) of this rule, if they are not receiving department funding.

(5) Construction Permits.

(B) The following activities are exempt from construction permitting

when the activities meet the applicable standards in 10 CSR 20-2 through 10 CSR 20-9. Projects exempt from construction permitting may require professional engineering, as defined in section 327.181, RSMo:

1. Construction of a separate storm sewer;
2. Sewer extensions of one thousand feet (1,000') or less, including gravity sewers and/or force mains, with no more than one (1) pump station;
3. Construction of less than three thousand gallons per day (3,000 gpd) non-discharging lagoon systems;
4. Class II and smaller Animal Feeding Operations (AFO), as designated in 10 CSR 20-6.300;
5. Nondomestic discharges of process wastewater except discharges utilizing an earthen basin;
6. Stormwater best management practices, as defined in 10 CSR 20-6.200;
7. Industrial facilities connecting to a publicly owned wastewater treatment facility;
8. Treatment facilities evaluated and constructed under other department programs;
9. Systems adding common metal salts for phosphorus removal prior to existing liquid-solids separation and tertiary filtration;
10. Adding pre-engineered dechlorination equipment;
11. Solids processing equipment;
12. Like-for-like replacement (e.g., replacing eight-inch (8") pipe with eight-inch (8") pipe at the same location and grade, but material type may be different);
13. Outfall relocation within the same receiving stream, close proximity to the existing outfall, and upon review by the department;
14. Projects which the department has determined a construction permit is not required through written determination; and
15. Minor projects that change equipment or operations, but do not affect the overall capacity of the treatment or treatment type, including, but not limited to:
   A. Internal piping changes;
   B. pH adjustment;
   C. Addition of solids storage tanks;
   D. Screening equipment;
   E. Grit removal equipment;
   F. Administrative buildings;
   G. Fences and access roads;
   H. Flow measuring devices;
   I. Mixing equipment;
   J. Addition and/or improvement of sampling equipment;
   K. Replacement of aeration equipment; and
   L. Polymer additives.

(E) Demonstration Projects. Demonstration and pilot projects are innovative processes for which minimum design criteria is not well established. Demonstration or pilot projects shall be approved by the department prior to implementation of the new technology process or equipment.

1. Pilot project installations are those whose discharge is returned to the existing treatment facility. They are installed for a period of one (1) year and are exempt from obtaining a construction permit after obtaining department approval of the project evaluation. Refer to paragraph (1)(B)8. of this rule.
   A. The project evaluation requirements are identified in 10 CSR 20-8.110(6). Pilot project installations are temporary and coordinated to ensure water quality is protected.
2. A demonstration project installation is a full scale innovative technology process. All antidegradation, operating permit, and construction permitting requirements apply.
   A. Full scale demonstration projects in Missouri are not exempt from antidegradation or permit requirements.
   B. The treatment process must be based on reasonable and sound engineering principles. Include a project evaluation of a technical performance demonstration of treating pollutants of concern in Missouri or locations with a climate similar to Missouri. The expected project evaluation details are outlined in 10 CSR 20-8.110(6) including review of design criteria.
   C. An operating permit modification depends on the nature of the treatment process and will be determined during project review of the facility evaluation or plan.
3. The technology remains a demonstration process until documentation verifies consistent performance as designed for treatment of pollutants of concern for twelve (12) consecutive months at three (3) sites in Missouri or locations with a climate similar to Missouri. Design subsequent installations of verified treatment processes based on established design criteria.

(G) An application for a construction permit shall be made on forms provided by the department and include the following items:

1. A Construction Permit Application Form signed—
   A. For a corporation, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by a delegated individual having overall responsibility for environmental matters at the facility;
   B. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or
   C. For a municipal, state, federal, or other public facility, by either a principal executive officer or by a delegated individual having overall responsibility for environmental matters at the facility;
2. Appropriate permit fee according to 10 CSR 20-6.011;
3. An electronic copy of the construction permit application and the information listed below in Portable Document Format (PDF) searchable format or department approved equivalent, along with one (1) paper copy for projects not seeking department funding or two (2) paper copies for projects seeking department funding under 10 CSR 20-4;
4. An approved Water Quality Review and antidegradation evaluation or determination for all new and expanding facilities, in accordance with 10 CSR 20-7.031(3);
5. A summary of design;
6. Detailed engineering plans and technical specifications signed, sealed, and dated by a Missouri registered professional engineer, which contain the information in accordance with 10 CSR 20-8, or other regulations as applicable;
7. A map showing the location of all outfalls, with scale, as well as a flowchart indicating each process which contributes to an outfall; and
8. Other information necessary to determine compliance with the Missouri Clean Water Law and these regulations as required by the department.

(H) If an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

1. Applicants who fail to satisfy all department technical comments after two (2) certified comment letters, in a time frame established by the department, may have the application returned as incomplete and shall forfeit the construction permit application fees.
2. The department shall act after receipt of all documents and information necessary for a properly completed application, as listed in subsection (5)(G) of this rule above and including appropriate filing fees, and other supporting documents as necessary, by either issuing or denying the construction permit.
3. The applicant may submit a written request that additional time is needed prior to the conclusion of the set time frame. The department shall grant reasonable time extensions.

(I) Notification in writing. A final determination whether the construction permit is approved, approved with conditions, or denied with reason, shall be provided in writing to the applicant by the department within one hundred eighty (180) days.

(M) A site specific operating permit application and appropriate modification fee shall be submitted with the construction permit application to allow for public participation prior to the issuance of a construction permit. An operating permit application and modification fee is not required with the construction permit application

if—

1. Effluent limits and permit conditions have been established and the public notice and comment procedures were previously completed as part of an operating permit renewal;

2. Effluent limits were established as part of the Antidegradation Review and the required public notice and comment procedures were afforded in accordance with subsection (3)(B) of this rule;

3. No new effluent limits and conditions are needed to be established in the existing operating permit, such as a facility description change; or

4. Applicant is seeking a general permit.

(6) Supervised Programs.

(B) Request Submittal. Authorities requesting supervised program approval may submit a request to the department with the following information regarding the system, treatment plant, capacity, and current procedures. The department shall review the request, supporting documentation, and may ask for additional information if necessary to determine compliance with the Missouri Clean Water Law and these regulations. The department shall inform the permittee in writing of its decision. Approval may be granted for a period of up to five (5) years in the applicant's operating permit.

1. General Information Submittal:

A. A statement that the continuing authority employs or contracts a sufficient number of Missouri registered professional engineers and other staff qualified to review plans, issue permits, prepare reports, inspect construction, and enforce local and state requirements for each sewer extension and treatment plant project. If the continuing authority engages outside firms, provide a copy of the minimum responsibilities and expectations of the consulting engineer and what oversight the continuing authority will have. Reviews must be independent of the designer to avoid conflicts of interest;

B. A statement that the continuing authority employs or contracts a sufficient number of persons qualified to supervise construction or that the continuing authority has enforceable ordinances which require construction supervision and subsequent certification by a Missouri registered professional engineer;

C. A statement on how the continuing authority maintains permanent records of approvals, sewer extensions, and treatment plant construction project and the retention policy for reports and project documentation; and

D. A copy of the procedures followed in reviewing, approving, and inspecting the construction of collection systems by others and for handling the design and construction of collection systems to be built by its own staff or contractors delineating the responsibilities between the designers and the reviewers must be present.

2. For Collection System Approval, applicants shall submit the following information:

A. Standard technical specifications and typical detail drawing, prepared, signed, and sealed by a Missouri registered professional engineer, in accordance with 10 CSR 20-8.110. Standard technical specifications and detail drawings complying with 10 CSR 20-8.120 through 10 CSR 20-8.130, and all other necessary appurtenances;

B. An engineering report discussing the remaining capacity of the existing collection system, including each pump station, and the available capacity of the wastewater treatment facility serving each area. Refer to 10 CSR 20-8.110(4);

C. A current layout map, or maps, of the collection system showing street names, sewer line material types, sizes, and lengths, manholes, pump stations, force mains, air release valves, and other sewer appurtenances as necessary, or a detailed description of the continuing authority's mapping system and the procedures for updating the system;

D. A copy of the enacted ordinance enforcing the standard technical specifications and typical detail drawings.

3. For Treatment Plant Approval, applicants shall submit the following information:

A. A copy of procedures to be followed in reviewing, approving, and inspecting the construction of wastewater treatment facilities by others and for retaining as-built plans following completion of the project, prepared by a Missouri registered professional engineer, in accordance with 10 CSR 20-8.110;

B. A facility plan discussing existing treatment plant(s), along with a summary of design discussing the remaining capacity of each existing wastewater treatment facility. Refer to 10 CSR 20-8.110(5);

C. Standard specifications and typical appurtenance construction details;

D. Following completion of the project, retain as-builts to be available for review, upon request.

(C) Operating Permit. Supervised program approval shall be granted through the applicant's operating permit for a period of up to five (5) years. The operating permit may contain additional reporting requirements including, but not limited to, a summary report for an approved period.

1. Treatment plant authority.

A. Antidegradation. Submittal and approval of an antidegradation review is required prior to any construction that will increase facility capacity, add or increase pollutants of concern, or change receiving stream. Refer to section (3) of this rule.

B. Operating Permit Modifications. Submit applications for operating permit modifications, when applicable, at least one hundred eighty (180) days before the date the facility begins to receive wastewater, unless permission for a later date has been granted by the department.

C. Technologies not established or discussed in 10 CSR 20-8 are not allowed for the Treatment Plant Approval.

(D) Summary Report. A report summarizing the construction activities will be contained in the operating permit application renewal for reauthorization.

1. For facilities with Collection System approval:

A. Name of sewer extension;

B. Length of sewer and force main;

C. Capacity of each new or upgraded pump station, if applicable;

D. Date sewer extension permit is issued;

E. Date sewer extension construction is accepted;

F. The ultimate receiving wastewater treatment facility;

G. The remaining long term average capacity of each wastewater treatment facility; and

H. Upon request, detailed project information on design flow, leakage, deflection, and inspections.

2. For facilities with Treatment Plant approval:

A. The projects planned, ongoing, or completed;

B. The remaining long-term average capacity of each treatment facility;

C. As-builts for new or expanded treatment facilities; and

D. Documentation and engineering justification of new or expanded treatment facilities of design components, which at a minimum meet the requirements in 10 CSR 20-8, Minimum Design Standards.

(7) Operating Permits.

(B) Applications.

1. An application for an operating permit must be submitted on forms provided by the department. The applications may be supplemented with copies of information submitted for other federal or state permits. The application shall include:

A. A map showing the location of all outfalls, with scale, as well as a flowchart indicating each process which contributes to an outfall;

B. Appropriate permit fee according to 10 CSR 20-6.011;

C. An antidegradation review for new and expanding discharging facilities;

D. A geohydrological evaluation conducted by the department's Missouri Geological Survey for new and expanded facilities;

E. If appropriate, a variance petition, with the information detailed in section (15) of this rule; and

F. Engineering certification that the project was designed to meet the requirements of 10 CSR 20-8 for projects exempted from construction permitting requirements in section (5) of this rule.

2. All applications must be signed as follows:

A. For a corporation, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by an individual having overall responsibility for environmental matters at the facility;

B. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or

C. For a municipal, state, federal, or other public facility, by either a principal executive officer or by an individual having overall responsibility for environmental matters at the facility.

3. The permittee shall provide written notice to the department as soon as possible of any planned physical alterations or additions to the permitted wastewater treatment facility.

(C) Applications for renewal of site-specific operating permits must be received at least one hundred eighty (180) days either before the expiration date of the present site-specific operating permit or the date the facility begins to receive wastewater unless permission for a later date has been granted by the department. The department shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

(D) For facilities seeking coverage under a general operating permit, the application for renewal shall be submitted according to section 644.051.10, RSMo.

(E) All reports required by the department shall be submitted and signed by a person designated in paragraph (7)(B)2. of this rule or a duly authorized representative, if—

1. The representative so authorized is responsible for the overall operation of the facility from which the discharge occurs; and

2. The authorization is made in writing by a person designated in paragraph (7)(B)2. of this rule and is submitted to the department.

(8) Terms and Conditions of Permits.

(A) The following shall be incorporated as terms and conditions of all permits:

1. All discharges and solids disposal shall be consistent with the terms and conditions of the permit;

2. The permit may be modified or revoked after thirty (30) days' notice for cause including, but not limited to, the following causes:

A. A violation of any term or condition of the permit;

B. A misrepresentation or failure to fully disclose all relevant facts in obtaining a permit;

C. A change in the operation, size, or capacity of the permitted facility; and

D. The permit may be modified after proper public notice and opportunity for comment when a wasteload allocation study has been completed showing that more stringent limitations are necessary to protect the in-stream water quality;

3. The permit may not be modified so as to extend the term of the permit beyond five (5) years after its issuance;

4. Permittees shall operate and maintain facilities to comply with the Missouri Clean Water Law and applicable permit conditions and regulations.

5. The permittee, owner, and continuing authority shall allow the department or an authorized representative (including an authorized contractor acting as a representative of the department), upon presentation of credentials to, at reasonable times—

A. Enter upon permittee's premises in which a point source, water contaminant source, or wastewater treatment facility is located or in which any records are kept according to the terms and conditions of the permit;

B. Have access to, or copy, any records that are kept according to the terms and conditions of the permit;

C. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under a permit; and

D. Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or Missouri Clean Water Law, any substances or parameters at any location.

6. If the permit is for a discharge from a publicly-owned treatment works, the permittee shall give adequate notice to the department of the following:

A. Any new introduction of pollutants into the treatment facility from an indirect discharger which would be subject to Sections 301 or 306 of the Federal Clean Water Act if it were directly discharging those pollutants;

B. Any substantial change in the volume or character of pollutants being introduced into that treatment facility at the time of issuance of the permit; and

C. For purposes of this subparagraph, adequate notice includes information on the following:

(I) The quality and quantity of influent introduced into the treatment facility, and

(II) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the treatment facility;

7. If the permit is for a discharge from a publicly-owned treatment works, the permittee shall be able to identify any introduction of pollutants or substances into the facility that alone or in combination will cause—disruption of the treatment processes, violation of effluent standards in their operating permit, violation of water quality standards in the receiving stream as defined in 10 CSR 20-7.031, or classification of the residues of the treatment processes as hazardous waste as defined in 10 CSR 25-4.010. In addition, the permittee shall require any industrial user of the treatment facility to comply with the requirements of 10 CSR 20-6.100;

8. If a toxic effluent standard, prohibition, or schedule of compliance is established under Section 307(a) of the Federal Clean Water Act for a toxic pollutant in the discharge of permittee's facility and the standard is more stringent than the limitations in the permit, then upon notice to the permittee the more stringent standard, prohibition, or schedule shall be incorporated into the permit as a condition; and

9. When a continuing authority under paragraph (2)(B)1., 2., or 3. is expected to be available for connection, any operating permit issued to a permittee under this paragraph, located within the service area of the paragraph (2)(B)1., 2., or 3. facility, shall contain the following special condition: Permittee shall cease discharge by connection to a facility with an area-wide management plan according to subsection (2)(B) of this rule within the timeframe allotted by the continuing authority with its notice of its availability. The permittee shall obtain departmental approval for closure according to section (12) of this rule or alternate use of these facilities.

(9) Prohibitions. No permit shall be issued in the following circumstances:

(G) To a facility which is a new source or a new discharger, if the discharge from the construction or operation of the facility shall—

1. Cause or contribute to the violation of water quality standards if the discharge is located in a segment that was an effluent limitation segment, prior to the introduction of the discharge from the new source or discharger; or

2. Exceed its pollutant load allocation if the discharge is into a water quality limited segment.

(11) Permits Transferable.

(A) Subject to subsection (2)(A), a construction permit and/or operating permit may be transferred upon submission to the department of an application to transfer signed by the existing owner and/or continuing authority and the new owner and/or continuing authority.

1. Until the time the permit is officially transferred, the original permittee remains responsible for complying with the terms and conditions of the existing permit.

2. To receive a transfer permit, the new owner and/or continuing

authority must complete an application according to section (5) and/or section (7) of this rule and demonstrate to the department that the new continuing authority agrees to be responsible for compliance with the permit.

3. The new owner and/or continuing authority shall be responsible for complying with the terms and conditions of the permit upon transfer.

(B) The department, within thirty (30) days of receipt of the application, shall notify the new applicant of its decision to revoke and reissue or transfer the permit.

(12) Closure of Treatment Facilities.

(D) Operating permits under section (7) of this rule or under 10 CSR 20-6.015 are required until all waste, wastewater, wastewater solids/sludges and any solid wastes have been disposed of in accordance with the closure plan approved by the department under subsection (12)(A) of this rule, and any disturbed areas have been properly stabilized.

(13) General Operating Permits.

(C) The department may require any person authorized by a general operating permit to apply for and obtain a site-specific operating permit. Any interested person may petition the department to take action under this subsection. Cases where a site-specific operating permit may be required, include, but are not limited to, the following:

1. The discharge(s) is a significant contributor of pollution which impairs the beneficial uses of the receiving water;

2. The discharger is not in compliance with the conditions of the general operating permit; and

3. A Water Quality Management Plan containing requirements applicable to these point sources is approved by the department.

(D) Any owner and continuing authority authorized by a general operating permit may request to be excluded from the coverage of the general operating permit by applying for a site-specific permit.

1. When a site-specific operating permit is issued to an owner and continuing authority otherwise subject to a general operating permit, the applicability of the general operating permit is terminated automatically on the effective date of the site-specific permit.

2. A source excluded from a general operating permit solely because it already has a site-specific permit may request that the site-specific permit be revoked and that it be covered by the general operating permit, if it meets all the requirements for coverage.

(14) Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new pipelines and storage tanks are exempt from permitting if the discharge is de minimis (less than one thousand (<1,000) gallons) or the person takes the following steps:

(B) Sampling and testing requirements. One (1) grab sample shall be taken per discharge during the first sixty (60) minutes of the discharge and be analyzed for the pollutants listed in (14)(A) of this rule as well as total discharge volume in gallons per day.

(C) Exception reporting. If any of the sampling results from the hydrostatic test discharge show any exceedance of (14)(A) limits, provide written notification, including the date of the sample collection, the analytical results, and a statement concerning the modifications in management practices that are being implemented to address the violation within five (5) days of notification of analytical results to the department.

(E) Any person who irrigates wastewater from a hydrostatic test may do so under this rule if the irrigation does not result in any discharge to waters of the state. The quality of the irrigated wastewater is not required to meet the limits in (14)(A).

(15) Variance Request Process.

(C) Provisional Variance.

1. A provisional variance is a short term, time limited reprieve from limitations, rules, standards, requirements, or order of the director because of conditions beyond the reasonable control of the permittee, would result in an arbitrary or unreasonable hardship, and the compliance costs are substantial and reasonably certain.

2. In accordance with section 644.062, RSMo, any person or permittee may apply for a provisional variance for limitations, rules, standards, requirements, or orders from the department pursuant to sections 644.006 through 644.141, RSMo. A provisional variance may not be granted under this regulation for limitations, rules, standards, requirements, or orders from the department pursuant to other statutes. The application for a provisional variance shall include information in accordance with subsection (15)(A) of this rule.

3. The provisional variance is issued by the department and may be retroactively applied upon permittee request. If a provisional variance is granted, notice shall be given using the same method prescribed for operating permits issued by the department in 10 CSR 20-6.020. The department shall promptly notify the applicant of the decision in writing and file the decision with the Missouri Clean Water Commission. Granting of a provisional variance is documentation of the department's enforcement discretion. There is no public notice period prior to issuance of a provisional variance. If retroactively granted, the permittee shall submit appropriate modified reports (such as discharge monitoring or those prescribed in a permit) within twenty (20) days of the provisional variance issuance date.

4. Provisional variances shall not be granted for the following:

A. In the department's judgement said variance would endanger public health, cause significant harm to aquatic life or wildlife, result in damage to property, or other demonstrable and measurable harm to downstream interests;

B. In anticipation of federal approval of any changes to a state water quality standard;

C. From the requirement to obtain a permit for an activity, in accordance with 10 CSR 20-6 and Chapter 644, RSMo;

D. To allow an activity which would otherwise require a permit to begin before the department issues or denies a permit; or

E. To allow a facility to exceed a permit limitation while the department considers an application to modify the permit limitation.

5. A provisional variance may be issued for up to forty-five (45) days, and may be extended once for up to an additional forty-five (45) days. The appropriate length of the provisional variance shall be determined at the discretion of the department.

A. Provisional variances may be issued for periods less than forty-five (45) days, or terminated earlier than the length of time specified at issuance, at the permittee's request (assuming that the variance is no longer essential for compliance).

B. The provisional variance may be granted subject to conditions determined necessary by the department. In order to qualify for an extension, a demonstration that the conditions under which the previous variance were granted still exist or are substantially similar.

C. In no case shall a provisional variance be granted to the same facility for more than ninety (90) days within the same calendar year.

6. Should a facility apply for multiple provisional variances or a single variance for the maximum ninety (90) days allowed, a long term plan to eliminate the need for relief from the same limit, rule, standard, requirement, or order, subject to the restrictions set forth above, needs to accompany the request in order for the application to be considered complete.

7. If the provisional variance is issued for a delay of implementation of limitations, rules, standards, requirements, or orders from the department to correct a violation, section 644.042, RSMo, requires the applicant post a performance bond or other security to assure completion of the work covered by the variance. The proof of financial responsibility may be in the form of a surety bond, CD, or irrevocable letter of credit and be subject to the following:

A. The bond is signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri;

B. The bond remains in effect until the terms and conditions of the variance are met and rules and regulations promulgated pursuant

thereto are complied with;

C. It is on file with the department;

D. It is made payable to the department; and

E. If the bond, CD, or letter of credit is cancelled by the issuing agent, submit new proof of financial responsibility within thirty (30) days of cancellation, or the provisional variance will be cancelled.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.011 Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1629–1632). No changes have been made to the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, staff explained the proposed amendment and one (1) comment was made. Three (3) comments were made through the Regulatory Action Tracking System.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Darrin Whitlock requested the department change (1)(E) to only charge seasonal permits a partial fee because his cost of doing business should not be the same as someone that runs their business year round.
RESPONSE: The department appreciates this comment. The changes proposed in the rule amendment are administrative in nature. In order to revise the fee structure certain conditions outlined in section 644.057, RSMo. must be met. Section 644.057, RSMo. sets forth a stakeholder process whereby the Clean Water Commission can approve a new fee structure. No changes were made as a result of this comment.

COMMENT #3: Steve McGowan commented he was unable to view Appendix A to see if he should comment or not on the rule.
RESPONSE: The department appreciates this comment. This proposed amendment did not include Appendix A. This proposed amendment removed reference to Appendix A, which was removed during the 2014 rulemaking. No changes were made as a result of this comment.

COMMENT #4: Kevin Wideman requested the department add a statement that says if a permit is not approved or denied within forty-five (45) days the cost of the permit will be reduced by ten percent (10%), if not approved or denied within sixty (60) days a reduction of twenty percent (20%) will be applied, and so on.
RESPONSE: The department appreciates this comment. The changes proposed in the rule amendment are administrative in nature. In order to revise the fee structure certain conditions outlined in section 644.057, RSMo, must be met. Section 644.057, RSMo, sets forth a stakeholder process whereby the Clean Water Commission can approve a new fee structure. No changes were made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.015 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1632–1633). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Ms. Jeanne Heuser and Mr. Robert Brundage. Two (2) written comment were received.

PUBLIC COMMENTS:

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Maisah Khan with Missouri Coalition for the Environment (MCE), Ms. Caroline Pufalt, Sierra Club Missouri Chapter, and Ms. Jeanne Heuser, citizen, had similar comments so they are being combined. All entities are concerned changes in 10 CSR 20-6.015 remove the requirement for a construction permit or

any review of engineering projects. Subsection (2)(A) appears to remove responsibility and therefore liability for no-discharge owners and their facility design, leaving it solely to operators who may only be hired as managers. (4)(A) and (B) remove references to fourteen (14) relevant rules. They oppose any changes that remove valuable institutional knowledge about the network of "No Discharge" rules that exist in the state regulatory framework. MCE is concerned that these changes may also make it more difficult for interested Missouri citizens to learn about "No Discharge" facilities, and the protections once afforded to communities from "No Discharge" facilities may be diminished. Ms. Heuser referenced #8 in the Regulatory Impact Report (RIR) which discusses short-term consequences, to support her comment. She has concerns about inefficiency and human error in overlooking rule requirements. Ms. Heuser also asked that #13 in the RIR be used as support to "not revise the rule," as it states "inaction will have no effect on the regulated community and regulators." Ms. Pufalt has concerns about the security of facility construction reviews and impacts on construction permits.
RESPONSE: The department agrees that maintaining "institutional" knowledge is an important aspect of any organization or business. While the permitting requirements may change over time, permits are issued based on current regulatory requirements. Executive Order 17-03 required all state agencies to review rules for ineffective, unnecessary, or unduly burdensome requirements. Portions of this regulation that are contained in other statutes and regulations are duplicative and unnecessary, therefore, have been removed. Removal of these duplicative sections referenced in this comment does not remove the duty to comply with those requirements contained in other state statutes and regulations. No changes have been made as a result of these comments.

COMMENT #3: Department staff noted a grammatical error in subsection (4)(B) as this should be (4)(A)
RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(B) was changed to (4)(A).

10 CSR 20-6.015 No-Discharge Permits

(4) Permits.
(A) Permit Conditions.
1. The department shall develop permit conditions containing limitations, monitoring, reporting, and other requirements to protect soils, crops, surface waters, groundwater, public health, and the environment.
2. The department may establish standard permit conditions and best management practices for land application facilities by following the public participation procedures under 10 CSR 20-6.020.
3. The department may establish a general permit for a category of similar facilities in accordance with 10 CSR 20-6.010(13).
4. Noncontiguous land application sites may be included in the operating permit for a process waste generator or contract hauler as determined appropriate by the department.
5. Whenever feasible or appropriate, all operating permit requirements under 10 CSR 20 Chapter 6 rules shall be incorporated into a single operating permit for each operating location.
6. Applications for permits shall include an engineer's seal affixed to all engineering plans and engineering certifications.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1633–1635). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff explained the proposed amendment. Two (2) individuals commented during the public hearing. The department also received twelve (12) written comments during the public comment period.

PUBLIC COMMENTS:

COMMENT #1: Robert Brundage, Newman, Comley, and Ruth, submitted a comment related to the removal of section (8) which states "Appeals filed under sections (5) and (6) of this rule may contain a request for stay of the conditions appealed." Mr. Brudage asks that should this portion of the rule be removed, that there would be opportunity for a permittee to seek a stay of an appealed permit.
RESPONSE: The proposed amendment specifies that appeals shall conform to the requirements of the administrative hearing commission 1 CSR 15-3.350. Subsection (2)(B) of this rule states that complaints may include a motion for stay. As a result, the department believes that a permittee still has the capability to seek a stay of an appealed permit. No changes were made to the rule as a result of this comment.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #3: Ms. Jeanne Heuser, a resident from rural Moniteau County, commented during the public hearing on August 15, 2018 and expressed her concern for the reduction in public participation, specifically in reference to the removal of 10 CSR 20-6.020(1)(A)4. Ms. Heuser also submitted written comments to the same; thus, both the comment received during public hearing and the written comment stated that the current rule requires the public notice of renewed general permits for facilities that were found to be in significant noncompliance during the last permit cycle. The comment suggested that, in general, public participation in environmental processes should be increased rather than decreased.
RESPONSE: The department agrees that public participation is a fundamental and integral part of environmental protection. Should non-compliance be significant enough that a general permit does not provide adequate protection to either human health or the environment, state regulations allow the department to require specific entities to apply for a site-specific permit to further address non-compliance. Site-specific permits are required to undergo a public comment period for initial issuance and subsequent renewals. No changes were

made to the rule as a result of this comment.

COMMENT #4: Ms. Kathleen Dolson, Ms. Dana Gray, and Ms. Francine Glass, citizens, expressed their concern that changes in the rule, specifically the deletion of the sentence "Applications, draft permits, supporting documents and reports upon those documents shall be available to the public, except for those portions determined to be confidential," will weaken the public's ability to access information.
RESPONSE: The department does not believe that the removal of this sentence reduces the public's access to information. The deleted language is restrictive in the sense that it specifies the types of documents that are availed to the public. The proposed language removes the specificity and instead states that any information or records may be subject to public disclosure. The new language updates the rule to incorporate the requirements of Missouri Sunshine Law. No changes were made to the rule as a result of this comment.

COMMENT #5: Ms. Laurie Lakebrink and Ms. Arlene Sandler, citizens, stated they prefer no changes be made to this rule.
RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #6: Joyce Wright, citizen, stated "Don't change 10 CSR 20-6.020."
RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #7: C. Wulff, citizen, stated "Please do not change 10 CSR 20-6.020. Public access to information is imperative for our democracy."
RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #8: Barry Leibman, citizen, stated "Please do not change this rule."
RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #9: Denise Baker, citizen, stated "Don't change 10 CSR 20-6.020."
RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #10: Maisah Khan, Missouri Coalition for the Environment, expressed concern that new language in subsection (3)(A) has "the effect of reducing transparency and public access to information." The comment further requests that the language remain as it is, or the words "may be" be replaced with "is."
RESPONSE: The department does not believe that the removal of this sentence reduces the transparency or public's access to information. The deleted language is actually restrictive in the sense that it specifies the types of documents that are availed to the public. The proposed language removes the specificity and instead states that any information or records may be subject to public disclosure. The words "may be" illustrates that not all information requests submitted to the department are subject to public disclosure such as information that is determined to be confidential. The new language updates the rule to incorporate the requirements of Missouri Sunshine Law. No changes were made to the rule as a result of this comment.

COMMENT #11: Ms. Caroline Pufalt, Sierra Club Missouri Chapter, indicated that they opposed suggested changes to this section. New language should read "Any information or records submitted obtained pursuant to Chapter 644, RSMo, is subject to public disclosure pursuant to Chapter 610 RSMo." Main verb should be "is" instead of "may be." The limits on public disclosure (confidentiality) are included with the reference cited.
RESPONSE: The department does not believe that the removal of this sentence reduces the transparency or public's access to information. The deleted language is actually restrictive in the sense that it specifies the types of documents that are available to the public. The proposed language removes the specificity and instead states that any information or records may be subject to public disclosure. The words "may be" illustrates that not all information requests submitted to the department are subject to public disclosure such as information that is determined to be confidential. The new language updates the rule to incorporate the requirements of Missouri Sunshine Law. No changes were made to the rule as a result of this comment.

COMMENT # 12: Comments were received by department staff after the comment period closed regarding section (2) of the rule. The rule amendment proposes the replacement of existing language with a citation to federal regulation. The proposed modification does not include language regarding the applicability of later amendments which must accompany the citation per 536.031.4, RSMo. Additionally, staff observed a grammatical error in the amended language. The phrase "conform to the stipulations outline" should be "conform to the stipulations outlined."
RESPONSE: The department acknowledges the omission and error of the language as proposed and appreciates the comment. Section

(2) has been updated accordingly.

10 CSR 20-6.020 Public Participation, Hearings, and Notice to Governmental Agencies

(2) Notice to Other Governmental Agencies. Notices to governmental agencies shall conform to the stipulations outlined in federal regulation 40 CFR 124.59 "Conditions requested by the Corps of Engineers and other government agencies," January 4, 1989, as published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 which is incorporated by reference and does not include later amendments or additions.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1635–1637). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff explained the proposed amendment. One (1) individual commented during the public hearing.

PUBLIC COMMENTS:

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing, and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: changing 10 CSR 20-6.070(2)(E) by removing the word "will" and replacing with "shall."

10 CSR 20-6.070 Groundwater Heat Pump Operating Permits

(2) Application.
(E) If an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.090 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1637–1642). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff explained the proposed amendment. One (1) individual commented during the public hearing.

PUBLIC COMMENTS:

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:
10 CSR 20-6.090(2)(A)10. was changed by removing the previously added word "consider" and replacing with the initial phrase "shall be considered."
10 CSR 20-6.090(2)(A)11. was changed by removing the previously added phrase "is defined as" and replaced it with the initial phrase "shall be."
10 CSR 20-6.090(2)(A)11.A was changed by placing back the initial phrase "and shall be calculated."
10 CSR 20-6.090(2)(A)11.D. was changed by removing the previously added word "will" and replacing with the initial word "shall."
10 CSR 20-6.090(2)(A)13. was changed by removing the previously added word "will" in two (2) locations, and replacing with the initial word "shall" for both locations.
10 CSR 20-6.090(2)(A)14. was changed by removing the previously added word "will" and replacing with the initial word "shall."
10 CSR 20-6.090(2)(E) was changed by removing the previously added word "will" and replacing with the initial word "shall."
10 CSR 20-6.090(2)(H) was changed by removing the previously added word "will" and replacing with the initial word "shall."
10 CSR 20-6.090(8)(D) was changed by removing the previously added word "will" and replacing with the initial word "shall."
10 CSR 20-6.090(2)(A) was changed by adding "and shall" to ensure that it was understood to be a requirement.

10 CSR 20-6.090(2)(A)10. was changed to add "the applicant shall" to clarify that it is and has been the applicants responsibility to conduct the required activity.

COMMENT #2: Department staff noted a grammatical error in subparagraph (2)(A)11.C., and incorrect citation in paragraph (2)(A)20. Staff also noted an incorrect citation in paragraph (2)(A)29. Department staff also noted an incorrect citation in (2)(F). Department staff noted incorrect alpha-numeric language in paragraph (3)(B)4. Department staff noticed incorrect reference and alpha-numeric language in paragraph (3)(B)5. Department staff noticed incorrect references in subsection (3)(C). Staff noted incorrect references in (4)(D)1., 3., and 4. Department noted incorrect references in subparagraph (5)(C)1.B.
RESPONSE AND EXPLANATION OF CHANGE: Subparagraph (2)(A)11.C. has been corrected as well as the incorrect citation in (2)(A)20. and (2)(A)29. The alpha-numeric error in paragraph (3)(B)4. has been correct. The citation in (2)(F) has been corrected. The incorrect reference and alpha-numeric error have been corrected. The reference in subsection (3)(C) has been corrected. The reference (4)(D)1., 3., and 4. have been corrected. The incorrect references in (5)(C)1.B. have been corrected.

10 CSR 20-6.090 Class III Mineral Resources Injection/Production Well Operating Permits

(2) Application.
(A) An application for an operating permit shall be made for each injection/production well and shall include each of the following items. The application may be supplemented with copies of information submitted for other federal or state permits.
1. All items listed in 10 CFR 144.31(e);
2. Description of the process that will be used for the mineral extractions, including injection/withdrawal procedures;
3. Estimated depth of the well, casing lengths and weights, intervals to be cemented, and related well construction data as recommended by the office of the state geologist;
4. Maximum and average volume of injected fluids and injection pressure that will be used on a daily basis;
5. Appropriate application fee as listed in 10 CSR 20-6.011;
6. Recommendation and justification on the number and location of sampling wells by a registered professional engineer or a qualified geologist as defined by sections 256.501 and 256.503, RSMo;
7. Where injection is into a formation which contains water with less than ten thousand milligrams per liter (10,000 mg/l) total dissolved solids (TDS), monitoring wells shall be:
A. Completed into the injection zone and into any underground sources of drinking water (USDW) above the injection zone which could be affected by the mining operation;
B. Located in a fashion as to detect any excursions of injection fluids, process by-products, or formation fluids outside the mining area or zone; and
C. Located as not to be physically affected by a subsidence or catastrophic collapse;
8. Where injection is into a formation which does not contain water with less than ten thousand (10,000) mg/l TDS, no monitoring wells are necessary in the injection zone;
9. Where the injection wells penetrate an underground source of drinking water (USDW) in an area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells shall be:
A. Completed into the USDW to detect any movement of injected fluids, process by-products, or formation fluids into a USDW; and
B. Located as not to be physically affected by a subsidence or catastrophic collapse;
10. In determining the number, location, construction and frequency of sampling of the monitoring wells, the following criteria shall be considered:
A. Population relying on the USDW affected or potentially affected by the injection operation;
B. Proximity of the injection operation to points of withdrawal of drinking water;
C. Local geology and hydrology;
D. Operating pressures and whether a negative pressure is being maintained;
E. Nature and volume of the injected fluid, the formation water, and the process by-products; and
F. Injection well density;
11. Map(s) describing an area of review for each Class III injection/production well or group of wells, as determined by a registered professional engineer or a qualified geologist as defined by sections 256.501 and 256.503, RSMo. The area of review shall be that area the radius of which is determined by the lateral distance from a Class III injection/production well or perimeter of a group of wells in which the pressure in the injection zone may cause the migration of injection or formation, or both, fluid into an USDW or into an improperly constructed, plugged, or abandoned well or test hole.
A. The radius of the area of review may be calculated using a mathematical model (for example, modified Thesis equation) and shall be calculated for an injection time period at least equal to the expected life of the well(s). The owner or operator must demonstrate to the director that the mathematical model used and the calculated area of review are appropriate for the known hydrologic properties of the underlying formations.
B. A fixed radius around the well or the perimeter of a group of wells of not less than one-half (1/2) mile may be used. In determining the fixed radius, the following factors shall be taken into consideration: chemistry of injected and formation fluids, hydrogeology, population and groundwater use and dependence, and historical practices in the area.
C. If the area of review is determined by a mathematical model pursuant to subparagraph (2)(B)8.A. the permissible radius is the result of the calculation even if it is less than one-half (1/2) mile.
D. Nothing in this section shall prevent the director from imposing alternate areas of review when geologic or hydrologic conditions render a calculated or fixed area a potential threat to an underground source of drinking water;
12. Submit with the application a mapped and tabulated inventory of all known water supply, injection/production, abandoned and test wells, including field names or numbers and locations of the wells, public water systems, within the area of review and a separate tabulation of all the wells, which penetrate the injection zone listing each well's type, construction method, date drilled, location, depth, and record of plugging or completion, or both, including a description of all corrective action(s) proposed to be performed to render wells penetrating the injection zone sealed, plugged, or otherwise impervious to the migration of fluids into or between well bores, USDWs, or different aquifers. The applicant is responsible for the inventory and corrective action requirements of this section and shall extend every reasonable effort to locate all wells within the area of review of the applicant well(s);
13. A plan for plugging and abandonment. Where the plan meets the requirements of this paragraph, the director shall incorporate it into the permit as a condition. Where the director's review of an application indicates that the permittee's plan is inadequate, the director shall require the applicant to revise the plan, prescribe conditions meeting the requirements of this paragraph or deny the application. For purposes of this paragraph, temporary intermittent cessation of injection operations is not abandonment;
14. Prior to granting approval for the plugging and abandonment of a Class III well, the director shall consider the following information:
A. The type and number of plugs to be used;
B. The placement of each plug, including the elevation of the top and bottom;
C. The type, grade, and quantity of cement to be used; and
D. The method of placement of the plugs;
15. The permittee is required to maintain financial responsibility

and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the director. The permittee must show evidence of financial responsibility to the director by the submission surety bond or other adequate assurance such as financial statements or other materials acceptable to the director;

16. Maps and cross-sections indicating the vertical limits of all USDWs within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

17. Maps and cross-sections detailing the geologic structure of the local area;

18. Generalized map and cross-sections illustrating the regional geologic setting;

19. Qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request confidentiality as specified in subsection (1)(E). If the information is proprietary, an applicant, in lieu of the ranges in concentrations, may choose to submit maximum concentrations which shall not be exceeded. In this case the applicant shall retain records of the undisclosed concentrations and provide them upon request to the director as part of any enforcement investigation;

20. Proposed formation testing program to obtain the information required by paragraph (2)(H)4.;

21. Proposed stimulation program;

22. Schematic or other appropriate drawings of the surface and subsurface construction details of the well;

23. Plans, including maps, for meeting the monitoring requirements of subsection (4)(D);

24. Expected changes in pressure, native fluid displacement, and direction of movement of injection fluid;

25. Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into the USDW;

26. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by paragraph (2)(B)19.;

27. The corrective action proposed to be taken under paragraph (2)(B)18.;

28. Where the injection zone is a formation which is naturally water-bearing, the following information concerning the injection zone shall be determined or calculated for new Class III wells or projects:

A. Fluid pressure;

B. Fracture pressure; and

C. Physical and chemical characteristics of the formation fluids;

29. Where the injection formation is not a water-bearing formation, only the information in subparagraph (2)(A)28.B. must be submitted;

30. Where the permittee becomes aware that s/he failed to submit any relevant facts in a permit application, or has submitted incorrect information in a permit application or in any report to the director, the permittee shall promptly submit the facts or information; and

31. Data sufficient to allow the department to carry out aquifer exemption procedures under the Safe Drinking Water Act, UIC program. The information shall be sufficient to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis for the amenability of the mining zone to the proposed mining method, and a timetable of planned development of the mining zone shall be considered by the director.

(E) If an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

(F) Any person signing a document under subsection (2)(B) or (C) shall make the following certification:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(H) Prior to granting approval for the operation of a Class III well, the director shall consider the following information:

1. All available logging and testing data on the well;

2. A satisfactory demonstration of mechanical integrity;

3. The anticipated maximum pressure and flow rate at which the permittee will operate;

4. The results of the formation testing program;

5. The actual injection procedures; and

6. The status of corrective action on defective wells in the area of review.

(3) Operating Permits.

(B) The director may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells—

1. Described and identified by location in permit application(s) if they are existing wells, except that the director may accept a single description of wells with substantially the same characteristics;

2. Located within the same well field, facility site, reservoir, project, or similar unit in the same state;

3. Operated by a single owner or operator;

4. Area permits specify—

A. The area within which underground injections are authorized; and

B. The requirements for construction, monitoring, reporting, operation, and abandonment for all wells authorized by the permit.

5. Area permits may authorize the permittee to construct and operate, convert, or plug and abandon wells within the permit area provided—

A. The permittee notifies the director at a time as the permit requires;

B. The additional well satisfies the criteria in subsection (3)(B) and meets the requirements specified in the permit under paragraph (3)(B)4; and

C. The cumulative effects of drilling and operation of additional injection wells are considered by the director during evaluation of the area permit application and are acceptable to the director.

(C) If the director determines that any well constructed pursuant to paragraph (3)(B)5. does not satisfy any of the requirements of subparagraphs (3)(B)5.A. and B., the director may modify or terminate the permit or take enforcement action. If the director determines that cumulative effects are unacceptable, the permit may be modified or terminated.

(4) Terms and Conditions of Permits.

(D) Monitoring requirements, at a minimum, shall specify—

1. Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis completed in accordance with paragraph (2)(A)19. is incorrect or incomplete, a new analysis in accordance with paragraph (2)(A)19. shall be provided to the director;

2. Monitoring of injection pressure and either flow rate or volume semi-monthly, or metering and daily recording of injected and produced fluid volumes as appropriate;

3. Monitoring of the fluid level in the injection zone semimonthly where appropriate and monitoring of the parameters chosen to measure water quality in the monitoring wells in accordance with paragraph (4)(D)1. semimonthly; and

4. Quarterly monitoring of wells in accordance with paragraph (4)(E)1.

(5) Prohibitions.
(C) New injection wells may not commence injection until construction is complete and—
1. The permittee has submitted notice of completion of construction to the director and—
A. The director has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or
B. The permittee has not received notice from the director of the intent to inspect or otherwise review the new injection well within thirteen (13) days of the date of the notice in paragraph (5)(C)1. of this rule, in which case prior inspection or review is waived and the permittee may commence injection.
(I) No operation shall commence until corrective actions outlined in paragraph (2)(A)12. and those required by the department have been completed.

(8) Plugging and Abandonment.
(D) The director shall prescribe aquifer cleanup and monitoring where s/he deems it necessary and feasible to insure adequate protection of USDWs.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1642–1652). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) individual commented during the public hearing. The department also received two (2) written comments during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:
(1)(B)11. includes the phrase "from the department" to ensure clarity on who grants the waiver. (1)(D)16.A. includes "as defined in section 644.016, RSMo" as a reference to the statute defines waters of the state.

COMMENT #2: Ms. Maisah Khan with Missouri Coalition for the Environment (MCE) stated the quality of our nation's waters are continuing to decline from non-point source pollution, and MCE believes that municipal separate storm sewer systems (MS4) permits in Missouri should continue to be strengthened.
RESPONSE: The department appreciates this comment and has worked to ensure that the rule amendments represent the minimum requirements needed to protect human health and environment consistent with the authority granted by the Missouri Clean Water Law and applicable federal regulations under the National Pollution Discharge Elimination System. No changes were made as a result of this comment.

COMMENT #3: Mr. Barry Leibman, citizen, stated "please do not change this rule."
RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. No changes were made to the rule as a result of this comment.

COMMENT #4: Department staff recognized a reference was incorrect in subparagraph (1)(B)13.C. Also noted was subparagraph (1)(D)(10)C. and part (1)(D)(10)C.(II). Also noted is subparagraph (1)(D)10.D. with an incorrect reference.
RESPONSE AND EXPLANATION OF CHANGE: The reference error in subparagraph (1)(B)13.C. has been corrected as well as subparagraph (1)(D)10.C. and part (1)(D)10.C.(II). The reference error in subparagraph (1)(D)10.D. was resolved.

10 CSR 20-6.200 Storm Water Regulations

(1) Storm Water Permits—General.
(B) Nothing shall prevent the department from taking action, including the requirement for issuance of any permits under the Missouri Clean Water Law and regulations, if any of the operations exempted should cause pollution of waters of the state or otherwise violate the Missouri Clean Water Law or these regulations. The following are exempt from storm water permit regulations:
1. Areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with storm water drained from permitted areas;
2. *De minimis* discharges as defined by the department in general permits or by the Clean Water Commission;
3. Recycling collection points which are covered in a manner which prevents contact with storm water, including run on;
4. Farmlands, domestic gardens, or lands used for sludge management where domestic sludge is beneficially reused and which are not physically located in the confines of the facility producing the sludge;
5. Agricultural storm water discharges and irrigation return flows;
6. Sites that disturb less than one (1) acre of total land area which are not part of a common plan or sale. Land disturbance activity on an individual residential building lot is not considered as part of the overall subdivision unless the activity is by the developer to improve the lot for sale;
7. Linear, strip, or ribbon construction or maintenance operations meeting one (1) of the following criteria:
A. Grading of existing dirt or gravel roads which does not increase the runoff coefficient and the addition of an impermeable surface over an existing dirt or gravel road;

B. Cleaning or routine maintenance of roadside ditches, sewers, waterlines, pipelines, utility lines, or similar facilities;

C. Trenches two (2) feet in width or less; or

D. Emergency repair or replacement of existing facilities as long as best management practices are employed during the emergency repair;

8. Mowing, brush hog clearing, tree cutting, or similar activities which do not grade, dig, excavate, or otherwise remove or kill the surface growth and root system of the ground cover;

9. Landfills which have received Missouri Department of Natural Resources approval to close and which are in compliance with any post-closure monitoring, management requirements, and deed restrictions, unless the department determines the facility is a significant discharger of storm water related pollutants;

10. Facilities built to control the release of only storm water are not subject to the construction permitting requirement of 10 CSR 20-6.010(4), provided that the storm water does not come in contact with process waste, process wastewater, or significant materials, and the storm water is not a significant contributor of pollutants;

11. Phase II municipal separate storm sewer systems (MS4) may request a waiver from the Department in accordance with 40 CFR part 122.32(c), December 8, 1999, as published by the Environmental Protection Agency (EPA) Docket Center, EPA West 1301 Constitution Avenue NW., Washington, DC 20004, are incorporated by reference. This rule does not incorporate any subsequent amendments or addition.

12. A regulated small MS4 may share the responsibility under the following:

A. A MS4 may develop an agreement with another entity to assist with satisfying the National Pollutant Discharge Elimination System (NPDES) permit obligations or with implementing a minimum control measure if:

(I) The other entity currently implements the control measure;

(II) The particular control measure, or component thereof, is at least as stringent as the corresponding permit requirement; and

(III) A MS4 that relies on another entity to satisfy some of the permit obligations specifies the condition of the agreement, including a description of the obligations implemented by the other entity. The permitted MS4 remains ultimately responsible for compliance with the permit obligations if the other entity fails to implement the control measure (or component thereof);

B. In some cases, the department may recognize, either in an individual permit or in a general permit that another governmental entity is responsible under a permit for implementing one (1) or more of the minimum control measures for a small MS4. Where the department recognizes these dual responsibilities, the department may not require the MS4 to include such minimum control measure(s) in their program. The MS4 permit may be modified to include the requirement to implement a minimum control measure if the other entity fails to implement it;

13. The director may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five (5) acres, but more than one (1) acre, where:

A. The value of the rainfall erosivity factor R in the Revised Universal Soil Loss Equation is less than five (5) during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Universal Soil Loss Equation (RUSLE), pages 21–64, dated January 1997, which is incorporated in this rule by reference. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M Street S.W., Washington, DC 20460. An operator must certify to the director that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five (5); or

B. A TMDL approved or established by the department or by the EPA that addresses the pollutant(s) of concern without the need for storm water controls;

C. Waste load allocations are not needed on non-impaired waters to protect water quality based on consideration of existing instream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of paragraph (1)(B)13. and subparagraph (1)(B)13.C. of this rule, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause or a potential cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the department that the construction activity will take place, and that storm water discharges will occur, within the drainage area addressed by the TMDL or by an equivalent analysis.

(D) Definitions.

1. Best management practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

2. BMPs for land disturbance. A schedule of activities, practices, or procedures that reduces the amount of soil available for transport or a device that reduces the amount of suspended solids in runoff before discharge to waters of the state. Types of BMPs for storm water control include, but are not limited to:

A. State-approved standard specifications and permit programs;

B. Employee training in erosion control, material handling and storage, and housekeeping of maintenance areas;

C. Site preparation such as grading, surface roughening, topsoiling, tree preservation and protection, and temporary construction entrances;

D. Surface stabilization such as temporary seeding, permanent seeding, mulching, sodding, ground cover including vines and shrubs, riprap, and geotextile fabric. Mulches may be hay, straw, fiber mats, netting, wood cellulose, corn or tobacco stalks, bark, corn cobs, wood chips, or other suitable material which is reasonably clean and free of noxious weeds and deleterious materials. Grasses used for temporary seeding shall be a quick growing species such as rye grass, Italian rye grass, or cereal grasses suitable to the area and which will not compete with the grasses sown later for permanent cover;

E. Runoff control measures such as temporary diversion dikes or berms, permanent diversion dikes or berms, right-of-way or perimeter diversion devices, and retention and detention basins. Sediment traps and barriers, sediment basins, sediment (silt) fence, and staked straw bale barriers;

F. Runoff conveyance measures such as grass-lined channels, riprap, and paved channels, temporary slope drains, paved flumes, or chutes. Slope drains may be constructed of pipe, fiber mats, rubble, Portland cement concrete, bituminous concrete, plastic sheets, or other materials that adequately will control erosion;

G. Inlet and outlet protection;

H. Streambank protection such as a vegetative greenbelt between the land disturbance and the watercourse. Also, structural protection which stabilizes the stream channel;

I. A critical path method analysis or a schedule for performing erosion control measures; and

J. Other proven methods for controlling runoff and sedimentation;

3. Copetitioner. A person with apportioned legal, financial, and administrative responsibility based on land area under its control for filing Part 1 and Part 2 of a state operating permit for the discharge of storm water from municipal separate storm sewer systems. A copetitioner becomes a copermittee once the permit is issued.

4. Copermittee. A permittee to a state operating permit that is responsible only for permit conditions relating to the discharge for which it is owner or operator, or both.

5. *De minimis* water contaminant source. A water contaminant source, point source, or wastewater treatment facility that is determined by the department to pose a negligible potential impact on waters of the state, even in the event of the malfunction of wastewater treatment controls or material handling procedures.

6. Field screening point. A specific location which during monitoring will provide representative information to indicate the presence of illicit connections or illegal dumping and quality of water within a municipal separate storm sewer system.

7. Illicit discharge. Any discharge to a municipal separate storm sewer that is not composed entirely of storm water, except discharges pursuant to a state operating permit, other than storm water discharge permits and discharges from fire fighting activities.

8. Incorporated place (in Missouri, a municipality). A city, town, or village that is incorporated under the laws of Missouri.

9. Landfill. Location where waste materials are deposited on or buried within the soil or subsoil. Included are open dumps and landfills built or operated, or both, prior to the passage of the Missouri Solid Waste Management Law as well as those built or operated, or both, since.

10. Large municipal separate storm sewer system. All municipal separate storm sewers that are either—

A. Located in an incorporated place with a population of two hundred fifty thousand (250,000) or more;

B. Located in the counties designated by the director as unincorporated places with significant urbanization and identified systems of municipal separate storm sewers;

C Owned and operated by a municipality other than those described in subparagraph (1)(D)10.A. of this rule that are designated by the director as part of a system. In making this determination, the director may consider the following factors:

(I) Physical interconnections between the municipal separate storm sewers;

(II) The location of discharges from the designated municipal storm sewer relative to the discharges from municipal separate storm sewer described in subparagraph (1)(D)10.A. of this rule;

(III) The quantity and nature of pollutants discharged to the waters of the state;

(IV) The nature of the receiving waters; or

(V) Other relevant factors; and

D. The director, upon petition, may designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdiction, watershed, or other appropriate basis that includes one (1) or more of the systems described in subparagraph (1)(D)10.A. of this rule.

11. MS4 means:

A. A municipal separate storm sewer system.

12. Major municipal separate storm sewer system outfall (major outfall). A municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of thirty-six inches (36") or more (or its equivalent) or for municipal separate storm sewers that receive storm waters from lands zoned for industrial activity within the municipal separate storm sewer system with an outfall that discharges from a single pipe with an inside diameter of twelve inches (12") or more (or from its equivalent). Industrial activity areas do not include commercial areas.

13. Major outfall. A major municipal separate storm sewer outfall.

14. Major structural controls. Man-made retention basins, detention basins, major infiltration devices, or other structures designed and operated for the purpose of containing storm water discharges from an area greater than or equal to fifty (50) acres.

15. Medium municipal separate storm sewer system. All municipal separate storm sewers that are either—

A. Located in an incorporated place with a population of one hundred thousand (100,000) or more but less than two hundred fifty thousand (250,000), as determined by the latest decennial census by the Bureau of Census; or

B. Owned and operated by a municipality other than those described in subparagraph (1)(D)15.A of this rule and that are designated by the director as part of the system. In making this determination, the director may consider the following factors:

(I) Physical interconnections between the municipal separate storm sewers;

(II) The locations of discharges from the designated municipal separate storm sewer relative to discharges from the municipal separate storm sewers described in subparagraph (1)(D)15.A. of this rule;

(III) The quantity and nature of pollutants discharged to waters of the state;

(IV) The nature of the receiving waters;

(V) Other relevant factors; or

(VI) The director, upon petition, may designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdiction, watershed, or other appropriate basis that includes one (1) or more of the systems described in subparagraph (1)(D)15.A. of this rule.

16. Municipal separate storm sewer means a conveyance or system of conveyances including roads and highways with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, paved or unpaved channels, or storm drains designated and utilized for routing of storm water which—

A. Does not include any waters of the state as defined in section 644.016, RSMo.

B. Is owned and operated by the state, city, town, village, county, district, association, or other public body created by or pursuant to the laws of Missouri having jurisdiction over disposal of sewage, industrial waste, storm water, or other liquid wastes;

C. Is not a part or portion of a combined sewer system;

D. Is not a part of a publicly owned treatment works as defined in 40 CFR 122.2; and

E. Sewers that are defined as large or medium or small municipal separate storm sewer systems pursuant to paragraphs 10., 15., and 29. of this section, or designated under subsection (1)(B) of this rule.

17. Operator. The owner, or an agent of the owner, of a separate storm sewer with responsibility for operating and maintaining the effectiveness of the system.

18. Outfall. A point source as defined by 10 CSR 20-2.010 at the point where a municipal separate storm sewer discharges and does not include open conveyances connecting two (2) municipal separate storm sewers, pipes, tunnels, or other conveyances which connect segments of waters of the state and are used to convey waters of the state.

19. Overburden. Any material of any nature consolidated or unconsolidated that overlays a mineral deposit excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

20. Owner. A person who owns and controls the use, operation, and maintenance of a separate storm sewer.

21. Process wastewater. Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

22. Receiving waters. Waters of the state as defined in this rule.

23. Recycling facilities. Locations where metals, paper, tires, glass, organic materials, used oils, spent solvents, or other materials are collected for reuse, reprocessing, or resale.

24. Regulated MS4 means:

A. A MS4 which serves a population of one thousand (1,000) or more within an urbanized area, or any MS4 located outside of an urbanized area serving a jurisdiction with a population of at least ten thousand (10,000) and a population density of one thousand (1,000) people per square mile or greater.

B. A MS4 which is designated by the department when it is

determined that the discharges from the MS4 have caused or have the potential to cause an adverse impact on water quality. An application shall be submitted within one hundred eighty (180) days of the designation by the department.

25. Runoff coefficient. The fraction of total rainfall that will appear at a conveyance as runoff.

26. Significant contributor of pollutants. A person who discharges or causes the discharge of pollutants in storm water which can cause water quality standards of the waters of the state to be violated.

27. Significant material or activity associated with industrial activity.

A. For the categories of industries identified in subsections (2)(A)–(C) of this rule, the term includes, but is not limited to, storm water discharged from industrial plant yards, immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility.

B. Significant materials include, but are not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation, Liability Act of 1980 (CERCLA); any chemical the facility is required to report pursuant to Section 313 of Title III of Superfund Amendments & Reauthorization Act of 1986 (SARA); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

C. Material received in drums, totes, or other secure containers or packages which prevent contact with storm water, including run on, are exempted from the significant materials classification until the container has been opened for any reason. If the container is moved into a building or other protected area prior to opening, it will not become a significant material.

D. Empty containers which have been properly triple rinsed are not significant materials.

28. Small construction activity means:

A. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

B. Any other construction activity designated by the department, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

29. Small municipal separate storm sewer system means:

A. Owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act (CWA) that discharges to water of the United States.

B. Not defined as large or medium municipal separate storm sewer systems pursuant to paragraphs 10. and 15. of this subsection.

C. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as around individual buildings.

30. Small MS4 means:

A. A small municipal separate storm sewer system.

31. Storm water means storm water runoff, snowmelt runoff and surface runoff, and drainage.

32. Storm water discharge associated with industrial activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw material storage areas at an industrial plant.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1652–1655). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) comment was received during the public hearing from Mr. Robert Brundage with Newman, Comley, and Ruth. The department received twelve (12) comment letters from individuals during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

Subsection (3)(B),"Buffer distances shall be in accordance with section 640.710, RSMo, unless exempted below:"

Subsection (3)(C), "Neighbor notice shall be conducted in accordance with section 640.715, RSMo."

Subsection (3)(H) "Secondary containments shall be installed in accordance with section 640.730, RSMo. Inspections shall be conducted in accordance with section 640.725, RSMo, in addition to the following:"

Paragraph (4)(A)5. was changed to remove the added word of "should" and replaced with the initial word "shall." Additionally, this subsection was changed to remove the added word "are" and

replaced with the initial phrase "shall be."

COMMENT #2: Ms. Kathy Stehwien, citizen, stated that the department is only concerned about the rules and regulations in favor of these facilities. She noted that consideration should be given to the public who have to live around these facilities, especially with regard to how close the factories can be to a neighborhood, as well as odor issues.
RESPONSE: Section 640.710 RSMo. requires "…the department shall require at least but not more than the following buffer distances between the nearest confinement building or lagoon and any public building or occupied residence…" This statute does not allow the department to require a larger buffer distance. Air pollution and odor regulations are administered by the Air Pollution Commission. No changes were made as a result of this comment.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth, commented that page 1653 subsection (3)(B) (MoReg) implements the buffer distances required by section 640.710, RSMo. The introduction to this subsection has been rewritten to "Buffer distances are to be in accordance with section 640.710, RSMo." The phrase "are to be" is confusing and poor grammar. It would be more clear to directly state "Buffer distances shall be implemented and maintained in accordance with section 640.710, RSMo."
RESPONSE AND EXPLANATION OF CHANGE: The department has changed 10 CSR 20-6.300(3)(B) by removing "are to" and replacing with "shall."

COMMENT: #4: Mr. Robert Brundage with Newman, Comley, and Ruth, commented that on page 1653 subsection (3)(C) Neighbor Notice Requirements (MoReg), the introduction is written in a confusing manner. He suggested it should be reworded as follows: "Neighbor notice shall be provided in accordance with the requirements of section 640.715, RSMo." Mr. Brundage also suggested in paragraph (3)(C)1. that the word "Buffer" be inserted in front of "distances" and delete "are to be" to read as follows: "Buffer [d]istances shall be ~~are to be~~ measured from…"
RESPONSE AND EXPLANATION OF CHANGE : The department has change 10 CSR 20-6.300(3)(C) by removing "is to" and replacing with "shall." Regarding the change requested for 10 CSR 20-6.300(3)(C)1., this language is repetitive as sections 640.710 and 640.715, RSMo, establish how neighbor notice distances are measured. Due to language being repetitive it was removed from the regulation to comply with Executive Order 17-03.

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on the discussion of Annual Reports on page 1653 (MoReg). Mr. Brundage stated that during stakeholder meetings his clients recommended to maintain this section in the regulation for the convenience of their members to know what the annual reporting requirements are without having to resort to the federal code that takes more time and imposes more red tape. Furthermore, the introductory section of 40 CFR 122.42(e) includes an additional requirement not found in the current regulation concerning e-reporting. Is this requirement meant to be included and required by the year 2020?
RESPONSE: The deletion of repetitive requirements is one of the objectives of Executive Order 17-03. The department concurs that by removing repetitive requirements that permittees will need to consult another regulation for the requirements. The annual reporting requirements are also listed in all Confined Animal Feeding Operation (CAFO) operating permits. The e-reporting requirement currently in the regulation as 40 CFR 122.42(e) is incorporated by reference into this regulation. No changes were made as a result of this comment.

COMMENT #6: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on page 1654, subsection (3)(H) Additional Requirements for Class IA CAFOs (MoReg). Mr. Brundage requested the introductory sentence for subsection (3)(H) should be rewritten and inserted in subsection 1 as follows, "Class IA CAFOs shall perform inspections in accordance with requirements of section 640.725, RSMo." He also requested that subsection 1, which includes a requirement to perform an inspection of the "structural integrity" of the collection system and containment structures, be removed. He stated that this is not required by the statute and should be deleted from this subsection. To require weekly structural integrity inspections of structures that have never suffered a catastrophic failure is overly burdensome. Mr. Brundage also suggested a rewrite of language in paragraph (3)(H)4. as follows: "Class IA CAFOs shall construct and maintain secondary containment structures in accordance with the requirements of section 640.730, RSMo.
RESPONSE AND EXPLANATION OF CHANGE: The duty to comply with Class IA inspection requirements is contained in 640.725, RSMo. The language referenced in this comment is a citation as to the location of the requirements. The requirement of weekly inspections of the structural integrity of collection systems and containment structures is not a new requirement and is consistent with inspections required by Class IB and IC operations in 10 CSR 20-6.300(3)(D)C. As a result of one of Mr. Brundage's comments the following language has been added to subsection (3)(H): "Secondary containments shall be installed in accordance with section 640.730, RSMo. Inspections shall be conducted in accordance with section 640.725, RSMo, in addition to the following:"

COMMENT #7: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on page 1654 (MoReg), paragraph (4)(A)2., Design Standards and Effluent Limitations. He stated that paragraph 2. imposes effluent limits for subsurface waters. Since CAFOs are not allowed to discharge, it makes no sense to impose discharging effluent limits for subsurface waters. Therefore, this subsection should be deleted.
RESPONSE: CAFOs are point sources and are subject to both state operating permit and federal NPDES permits where appropriate in accordance with sections 640.710 and 644.026. As a part of being subject to NPDES regulations, effluent limitations are applicable given the allowance for discharge under certain situations; thus, CAFOs are appropriately given effluent limitations. In instances where these allowable discharges are to subsurface waters of the state effluent limitation are also applicable. No changes were made as a result of this comment.

COMMENT #8: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on page 1655 (MoReg), section (7), CAFO Indemnity Fund. The heading for section (7) does not make sense ("in accordance with"). Instead, the heading could be rewritten as follows: "Concentrated Animal Feeding Operation Indemnity Fund." Also, subsection (A) could be rewritten as follows: "Class IA CAFO shall participate in the CAFO indemnity fund in accordance with the terms and conditions of section 640.740, RSMo."
RESPONSE AND EXPLANATION OF CHANGE: The department has changed 10 CSR 20-6.300(7) to only include the header "Concentrated Animal Feeding Operating Indemnity Fund for Class IA CAFO." Additionally, because of this change the existing subsections (A) thru (D) have been bumped by one subsection to (B) thru (E) with the addition of a new subsection (A). The new subsection (A) now reads, "Participation in the Concentrated Animal Feeding Operating Indemnity Fund and its administration shall be in accordance with sections 640.740 through 640.747, RSMo." Also important to note that the reference to sections 640.740 through 640.747 is in response to Comment #9 below.

COMMENT #9: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on page 1655 (MoReg), section (7), CAFO Indemnity Fund. Mr. Brundage stated the heading for section (7) says "in accordance with section 640.740, RSMo." This citation is incomplete because the CAFO indemnity fund provisions are codified in sections 640.740 through 640.747 RSMo, not just 640.740 RSMo. This section does not say that CAFOs are required to submit

CAFO indemnity payments pursuant to the sections 640.740 through 640.747, RSMo, or that the department is required to administer the indemnity fund pursuant to sections 640.740 through 640.747, RSMo.
RESPONSE AND EXPLANATION OF CHANGE: The department has changed 10 CSR 20-6.300(7) to correctly reference sections 640.740 through 640.747, RSMo.

COMMENT #10: Ms. Francine Glass, citizen, Ms. Laurie Lakebrink, citizen, Ms. Denise Baker, citizen, C. Wulff, citizen, Ms. Joyce Wright, citizen, and Ms. Kathleen Dolson, citizen, had similar comments which are summarized as follows: "Please do NOT change this rule, 10 CSR 20-6.300. I am concerned that the proposed deletions in the rule remove the requirement for CAFOs to apply for permits 90 and 180 days prior to the start of operation and remove specific provisions for neighbor notice requirements."
RESPONSE: Executive Order 17-03 required all state agencies to review regulations for ineffective, unnecessary, or unduly burdensome requirements. Portions of this regulation that are contained in other statutes and regulations are duplicative and unnecessary therefore, have been removed. Removal of these duplicative sections does not remove the duty to comply with those requirements contained in other state statutes and regulations. There is no statutory requirement for the time frame for submittal of new operating permit applications. Neighbor notice requirement are contained in section 640.715, RSMo, and must still be complied with. No changes were made as a result of these comments.

COMMENT #11: Maisah Khan with Missouri Coalition for the Environment filed comments that in 10 CSR 20-6.300, there are deletions that remove timelines for Concentrated Animal Feeding Operations (CAFOs) to submit permits and deletions related to neighbor notice requirements. While the neighbor notice requirements appear in the statute 640.715, RSMo, it is imperative that these requirements be kept as part of the rule in order to ensure public participation and engagement in the process. Overall, MCE urges the DNR to maintain rules related to CAFO operations that protect public health and the environment. MCE believes that local communities and rural families in Missouri must have access to information about new CAFO permits, and they must have the opportunity to provide feedback on new CAFO operations.
RESPONSE: Executive Order 17-03 required all state agencies to review regulations for ineffective, unnecessary, or unduly burdensome requirements. Portions of this regulation that are contained in other statutes and regulations are duplicative and unnecessary therefore, have been removed. Removal of these duplicative sections does not remove the duty to comply with those requirements contained in other state statutes and regulations. There is no statutory requirement for the time frame for submittal of new operating permit applications. Neighbor notice requirement are contained in section 640.715, RSMo, and must still be complied with. No changes were made as a result of this comment.

COMMENT #12: Ms. Jeanne Heuser, citizen, stated that this is the primary CAFO rule that has been used for some years; she has an important familiarity with its contents. Now the rule will be confused by having to reference back and forth between state rules and statutes, as well as federal rules. It seems the most essential sections of the rule are eliminated by referencing to these other locations, where the descriptions are not as clearly defined as can be seen in 10 CSR 20-6.300(3)(B)1. To the citizen, it might seem there is an intentional obfuscation occurring, rather than a red-tape reduction. In addition, the deletion of 10 CSR 20-6.300(2)(E)2., appears to be an obvious attempt to allow CAFO permits to be rushed through the process.
RESPONSE: 10 CSR 20-6.300(3)(B)1. incorporates federal regulations into the state regulation to ensure compliance with the federal regulations.

COMMENT #13: Dana Gray, citizen, Arlene Sandler, citizen, Tom Abeln, citizen, Margaret O'Gorman, and Caroline Pufalt, Sierra Club Missouri Chapter, all had similar comments, which are summarized here:

You are removing the requirement in (2)(E)2. for CAFOs to apply for permits 90 and 180 days before starting operation and removing specific provisions for neighbor notice requirements. Don't change 10 CSR 20-6.300. These operations are killing our environment, our water, our animals, and ultimately, US!!!
RESPONSE: The department has developed regulations in 10 CSR 20-8.300 for the design of manure storage structures as well as operational requirements in 10 CSR 20-6.300. Both regulations impose a no-discharge effluent limitation requirement on CAFOs for the protection of surface water and groundwater. No changes were made as a result of these comments.

COMMENT #14: Department staff recognized a grammatical clarification was needed to subsection (3)(F) as well as in paragraph (4)(A)1.
RESPONSE AND EXPLANATION OF CHANGE: The grammatical clarification was made to subsection (3)(F) and paragraph (4)(A)1.

10 CSR 20-6.300 Concentrated Animal Feeding Operations

(3) Operating Permit Requirements. These requirements apply to all operating permits unless otherwise specified.

(B) Buffer Distances. Buffer distances shall be in accordance with section 640.710, RSMo unless exempted below:

1. When a CAFO proposes an expansion or modification but does not increase to a larger classification size, the buffer distance requirements shall be applicable only to the proposed confinement buildings and wastewater storage structures unless exempted by paragraph 2. of this subsection. Neighbor notice requirements of subsection (C) of this section shall apply to all existing and proposed confinement buildings and wastewater storage structures. If the proposed expansion or modification results in an increase to a larger classification size, the buffer distance and neighbor notice requirement of the larger classification size will apply to all existing and proposed confinement buildings and wastewater storage structures unless exempted by paragraph 4. of this subsection.

2. A concentrated animal feeding operation and any future modification or expansion of a CAFO is exempt from buffer distance requirements, but not neighbor notice requirements, when it meets all of the following criteria:

A. The CAFO was in existence prior to June 25, 1996; and

B. The CAFO does not expand to a larger classification size.

3. When existing animal feeding operations or concentrated animal feeding operations expand to a larger class size, the buffer distances shall not apply to the portion of the operation in existence as of June 25, 1996.

4. Buffer distances are not applicable to residences owned by the concentrated animal feeding operation or a residence from which a written agreement for operation is obtained from the owner of that residence. When shorter buffer distances are proposed by the operation and allowed by the department, the written agreement for a shorter buffer distance shall be recorded with the county recorder and filed in the chain of title for the property of the land owner agreeing to the shorter buffer distance.

(C) Neighbor Notice Requirements. Neighbor notice shall be conducted in accordance with section 640.715, RSMo.

1. Acceptable forms of proof for submittal that neighbor notice was sent include copies of mail delivery confirmation receipts, return receipts, or other similar documentation.

2. All concentrated animal feeding operations shall submit, as part of the operating permit application, an aerial or topographic map of the production area. The maps shall show the operation layout, buffer distances, property lines, and property owners within one and one-half (1 1/2) times the buffer distance.

3. The neighbor notice will expire if an operating permit application has not been received by the department within twelve (12) months of initiating the neighbor notice requirements.

(F) Annual Reports. This section is required for NPDES operating permits only. Annual reports shall comply with the federal regulation 40 CFR 122.42(e)(4), "Annual reporting requirements for CAFOs," Jan. 8, 2018, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which is hereby incorporated by reference and does not include later amendments or additions.

(H) Additional Requirements for Class IA CAFOs only. Secondary containments shall be installed in accordance with Section 640.730 RSMo. Inspections shall be conducted in accordance with Section 640.725, RSMo, in addition to the following:

1. Inspections shall also include the structural integrity of the collection system and containment structures along with any unauthorized discharges from the flush and wet handling systems. Records shall be maintained by the facility for a minimum of three (3) years on forms approved by the department.

2. Secondary containment structure(s) or earthen dam(s) shall be sized to contain a minimum volume equal to the maximum capacity of flushing in any twenty-four- (24-) hour period from all gravity outfall lines, recycle pump stations, and recycle force mains.

3. Class IA concentrated animal feeding operations (both new and those operations that wish to expand to Class IA size) are prohibited from the watersheds of the Current, Jacks Fork, and Eleven Point Rivers as described in 10 CSR 20-6.300(1)(B)9.D.

4. A record of inspections when the water level is less than twelve inches (12") from the emergency spillway shall be included with the operations annual report.

(4) Design Standards and Effluent Limitations.

(A) Effluent Limitations Applicable to All Class I CAFOs.

1. New and expanding CAFOs shall be designed and constructed in accordance with 10 CSR 20-8.300.

2. Effluent limits for subsurface waters shall be in accordance with 10 CSR 20-7.015(7)(E).

3. NPDES operating permits shall also comply with effluent limitations as set forth in 40 CFR Part 412, Subpart A through Subpart D, July 30, 2012, without any later amendments or additions, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which are hereby incorporated by reference.

4. There shall be no discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the land application of manure, litter, or process wastewater to land application areas under the operational control of the CAFO, except where it is an agricultural storm water discharge. When manure, litter, or process wastewater has been land applied in accordance with subsection (3)(G) of this rule, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of the CAFO is considered to be an agricultural storm water discharge.

5. A chronic weather event is a series of wet weather events and conditions that can delay planting, harvesting, and prevent land application and dewatering practices at wastewater storage structures. When wastewater storage structures are in danger of an overflow due to a chronic weather event, CAFO owners shall take reasonable steps to lower the liquid level in the structure through land application, or other suitable means, to prevent overflow from the storage structure. Reasonable steps may include, but are not limited to, following the department's current guidance on "Wet Weather Management Practices for CAFOs." These practices shall be designed specifically to protect water quality during wet weather periods. A discharge resulting from a land application conducted during wet weather conditions is not considered an agricultural stormwater discharge and is subject to permit requirements. The department will determine, within a reasonable time frame, when a chronic weather event is occurring for any given county in Missouri. The determination will be based upon an evaluation of the one-in-ten (1- in-10) year return rainfall frequency over a ten- (10-) day, ninety- (90-) day, one hundred eighty- (180-) day, and three hundred sixty five- (365-) day operating period.

(7) Concentrated Animal Feeding Operation Indemnity Fund for Class IA CAFO.

(A) Participation in the Concentrated Animal Feeding Operating Indemnity Fund and its administration shall be in accordance with sections 640.740 through 640.747, RSMo.

(B) For facilities permitted after June 25, 1996, the annual fee shall commence on the first anniversary of the operating permit

(C) In no event shall a refund exceed the unencumbered balance in the Concentrated Animal Feeding Operation Indemnity Fund.

(D) Each payment shall identify the following: state operating permit number, payment period, and permittee's name and address. Persons who own or operate more than one (1) operation may submit one (1) check to cover all annual fees, but are responsible for submitting the appropriate information to allow proper credit for each permit file account.

(E) Annual fees are the responsibility of the permittee. Failure to receive a billing notice is not an excuse for failure to remit the fees.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 7—Water Quality

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-7.015 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1655–1668). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff explained the proposed amendment. Two (2) individuals commented during the public hearing. The department also received three (3) written comments during the public comment period.

PUBLIC COMMENTS:

COMMENT #1: Robert Brundage, Newman, Comley, and Ruth, on behalf of Doe Run, and Kevin Perry, REGFORM, provided written comments during the public comment period and verbal comments during the public hearing on the amendment to 10 CSR 20-7.015(1)(A)7. While they both mentioned that the proposed amendment to the rule was helpful as the definition now includes a reference to "inhibitions" in addition to "no observable effect concentrations," the proposed amendment should be updated to provide further clarity.

RESPONSE AND EXPLANATION OF CHANGE: The department is appreciative of the comments and also agrees that the amendment as proposed could be further clarified. As clarification of regulatory requirements is a significant component to the Red Tape Reduction Initiative, the definition of Toxic Unit-Chronic was updated for clarity.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the

word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

10 CSR 20-7.015(3)(B)2.C. was changed by removing the added "will" and replacing with the initial "shall."

10 CSR 20-7.015(4)(C)2.C. was changed by removing the added "will" and replacing with the initial "shall."

10 CSR 20-7.015(5)(B)2.C. was changed by removing the added "will" and replacing with the initial "shall."

10 CSR 20-7.015(6)(A)4.B.(III) was changed by removing the added "will" and replacing with the initial "shall."

10 CSR 20-7.015(8)(B)2.C. was changed by removing the added "will" and replacing with the initial "shall."

10 CSR 20-7.015(4)(A) changed by replacing "are to be" with "must be."

COMMENT #3: Mr. Kevin Perry, REGFORM, provided verbal comments during the public hearing and written comments during the public comment period regarding the increased monitoring for nutrients. Mr. Perry commented that amendment to the rule was done in association with Red Tape Reduction and the new monitoring requirements, specifically to industrial discharges, does not reduce regulation but rather increases it. Mr. Perry recommended that industrial discharges should be exempt from the requirement or, if not exempt, Mr. Perry proposed additional language to the rule to allow flexibility should a facility submit analytical data that would suggest that a discharge does not have significant amounts of the constituents present.
RESPONSE: The department understands that increased nutrient monitoring requirements for specific facilities may appear to be increasing regulatory burden and, at first glance, may not be in line with the spirit of Red Tape Reduction. However, the department believes that the overall regulatory burden will be reduced over time, especially as it pertains to potential nutrient effluent limitations in permits. By monitoring both influent and effluent for nutrients the department will be equipped with information about nutrient removal of wastewater treatment technologies and potential treatment optimization options that are possible without costly treatment plant upgrades. Furthermore, and in specific regard to industrial discharges, the current rule as well as the proposed amendment to the rule only requires nutrient monitoring for facilities that "typically discharge nutrients." Should a facility demonstrate that there is no nitrogen or phosphorus in a discharge, nor is there expected to be based on disclosed processes, materials or products, permit writers are currently not including the nutrient monitoring requirements in operating permits. This permitting practice will not change once the rule is amended. Also, in many cases, industrial discharges don't have an influent stream to monitor and as a result influent monitoring would not be required in the operating permit. The department believes there is sufficient flexibility in the existing and proposed amendment to minimize any undue burden on industrial dischargers. No changes were made as a result of this comment.

COMMENT #4: Ms. Jeanne Heuser, citizen, provided written comments stating just because there are supposedly few discharges to stream with only secondary contact recreation uses, short-term *E-coli* standards should never be weakened.
RESPONSE: The proposed amendment to the short-term *E. coli* permit limits was not due to few discharges to streams with only secondary contact recreation uses. The change to the rule language was to bring the derivation of short term limits for the secondary contact recreation criteria in line with the derivation methodology that is utilized for whole body contact A and whole body contact B effluent limitations. The *E. coli* water quality criteria for secondary contact recreational uses remains unchanged and will continue to be implemented as a monthly geometric mean limitation in applicable operating permits, the revised derivation for short term limitations will not cause a negative impact to human health or the environment. No changes were made as a result of this comment.

COMMENT #5: Mr. Stanley Thessen, Missouri Farm Association (MFA), Incorporated, provided written comments stating the referenced subsection of (2)(B) in 10 CSR 20-7.015(9)(I) does not exist.
RESPONSE AND EXPLANATION OF CHANGE: The department is appreciative of the comment and while (2)(B) does in fact exist, the department agrees that the amendment as proposed should be corrected to indicate (2)(A) in place of (2)(B).

COMMENT #6: Mr. Stanley Thessen, MFA, Incorporated, provided written comments stating the referenced subsection of (8)(B) in 10 CSR 20-7.015(9)(I) list monitoring requirements for all waters, and does not list any facilities as referenced.
RESPONSE AND EXPLANATION OF CHANGE: The department is appreciative of the comment and agrees that the amendment as proposed should be corrected to indicate (8)(A) in place of (8)(B).

COMMENT #7: Mr. Stanley Thessen, MFA, Incorporated, provided written comments stating that the reference to precipitation should be eliminated from 10 CSR 20-7.015(9)(I)2. Construction of infrastructure adequate to meet this requirement and the cost of analyzing and disposing of stormwater is not sustainable.
RESPONSE: This rule does not require the collection of all precipitation. Rather, this rule requires that any precipitation that is collected in the operational area or collected in secondary containment areas shall be stored and disposed in a no-discharge manner or treated to meet applicable control technology referenced in subsection (9)(I) of the rule. No changes were made as a result of this comment.

COMMENT #8: Mr. Stanley Thessen, MFA, Incorporated, provided written comments stating that the reference to (1)(B)1.–6. does not exist as referenced in 10 CSR 20-7.015(8).
RESPONSE: A review of the proposed rule shows that 10 CSR 20-7.015(1)(B)1.–6. does exist. No changes were made as a result of this comment.

COMMENT #9: A department employee provided comments that the regulatory citation referenced in 10 CSR 20-7.015(9)(D)6. is (9)(D)4., but should be (9)(D)5.
RESPONSE: The department is appreciative of this comment and agrees that the listed citation is incorrect and should instead be (9)(D)5., as suggested.

10 CSR 20-7.015 Effluent Regulations

(1) Designations of Waters of the State.
(A) Definitions.
1. Acute Toxicity Test—a test used to determine the concentration of an effluent that causes an adverse effect (usually death) in a group of test organisms during a short-term exposure.
2. Allowable Effluent Concentration—the concentration of a toxicant or the parameter toxicity in the receiving water after mixing, sometimes referred to as the receiving water concentration or the in-stream waste concentration.
3. Chronic Toxicity Test—A short-term test, usually ninety-six

(96) hours or longer in duration, in which sub-lethal effects such as reduced growth or reproduction rates are measured in addition to lethality.

4. Representative sample—a small quantity whose characteristics represent the nature and volume of the whole as described in 40 CFR Part 122.48 September 26, 1984, as published by the Office of the Federal Resister, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions.

5. Toxic Unit—a measure of effluent toxicity generally expressed as acute toxicity unit or chronic toxicity unit. The larger the toxicity unit, the greater the toxicity.

6. Toxic Unit–Acute—one-hundred (100) times the reciprocal of the effluent concentration that causes fifty percent (50%) of the organisms to die in an acute toxicity test.

7. Toxic Unit-Chronic—one-hundred (100) divided by either the highest effluent concentration that causes no observable effect on the test organisms or the inhibition concentration (IC25) causing a twenty-five percent (25%) or more reduction in the reproduction or growth of the test organisms in a chronic toxicity test.

(3) Effluent Limitations for the Lakes and Reservoirs.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

B. Sludge sampling will be established in the permit.

2. Unless otherwise specified in the operating permit, sample types shall be:

A. Grab samples for lagoons and recirculating media beds;

B. Twenty-four- (24-) hour composite samples for mechanical plants; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

3. The monitoring frequency and sample types stated in paragraphs (3)(B)1. through 2. of this rule are minimum requirements.

(4) Effluent Limitations for Losing Streams.

(A) Prior to discharging to a losing stream, alternatives such as relocating the discharge to a gaining stream, and connection to a regional wastewater treatment facility must be evaluated and determined to be unacceptable for environmental and/or economic reasons.

(C) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

B. Sludge samples will be established in the permit.

2. Unless otherwise specified in the operating permit, sample types shall be:

A. Grab samples for lagoons and recirculating media beds;

B. Twenty-four- (24-) hour composite samples for mechanical plants; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

3. The monitoring frequency and sample types stated in paragraphs (4)(C)1. through 2. of this rule are minimum requirements.

(5) Effluent Limitations for Metropolitan No-Discharge Streams.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

B. Sludge sampling will be established in the permit.

2. Unless otherwise specified in the operating permits, sample types shall be:

A. Grab samples for lagoons and recirculating media beds;

B. Twenty-four- (24-) hour composite samples for mechanical plants; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

3. The monitoring frequency and sample types stated in paragraphs (5)(B)1. through 2. of this rule are minimum requirements.

(6) Effluent Limitations for Special Streams.

(A) Limits for Outstanding National Resource Waters as listed in Table D of 10 CSR 20-7.031 and Drainages Thereto.

1. In addition to the requirements of section (9) of this rule, the following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility to waters included in this section.

2. Discharges from wastewater treatment facilities, which receive primarily domestic waste, or from POTWs are limited as follows:

A. New releases from any source are prohibited;

B. Discharges from sources that existed before June 29, 1974, or if additional stream segments are placed in this section, discharges that were permitted at the time of the designation will be allowed.

3. Industrial, agricultural, and other non-domestic contaminant sources, point sources, or wastewater treatment facilities which are not included under subparagraph (6)(A)2.B. of this rule shall not be allowed to discharge. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner.

4. Monitoring requirements.

A. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

(I) The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit;

(II) Sludge sampling will be established in the permit.

B. Unless otherwise specified in the operating permit, sample types shall be:

(I) Grab samples for lagoons and recirculating media beds;

(II) Twenty-four- (24-) hour composite samples for mechanical plants; and

(III) Sludge samples shall be grab samples unless otherwise specified in the operating permit.

C. The monitoring frequency and sample types stated in subparagraphs (6)(A)4.A. through B. of this rule are minimum requirements.

(8) Effluent Limitations for All Waters, Except Those in Paragraphs (1)(B)1.–6. of This Rule. In addition to the requirements of section (9) of this rule, the following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

B. Sludge sampling will be established in the permit.

2. Unless otherwise specified in the operating permit, sample types shall be:

A. Grab samples for lagoons and recirculating media beds;

B. Twenty-four- (24-) hour composite samples for mechanical plants; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

3. The monitoring frequency and sample types stated in paragraphs (8)(B)1. through 2. of this rule are minimum requirements.

(9) General Conditions.

(I) Industrial, agricultural, and other nondomestic water contaminant sources, point sources, or wastewater treatment facilities which are not included under subsections (2)(A) or (8)(A) of this rule—

1. These facilities shall meet the applicable control technology currently effective as published by the EPA in 40 CFR 405–471. Where there are no standards available or applicable, the department shall set specific parameter limitations using best professional judgment. The pH shall be maintained in the range from six to nine (6–9) standard units, except that discharges of uncontaminated cooling water and water treatment plant effluent may exceed nine (9) standard units, but may not exceed ten and one-half (10.5) standard units, if it can be demonstrated that the pH will not exceed nine (9) standard units beyond the regulatory mixing zone; and

2. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner or treated to meet the applicable control technology referenced in paragraph (9)(I)1. of this rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 20-8.020 Design of Small Sewage Works **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1669). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed rescission. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The Department did not receive any comment letters during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing, and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word, as suggested by this comment. Based on this review no changes have been made.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.110 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1669–1680). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The Department received three (3) comment letters during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) requested clarification that information provided to the department regarding available footprint for nutrient removal through this rule is considered non-binding. While MSD agrees that evaluation of nutrient removal capabilities is necessary, it is important that facilities retain their flexibility to respond to future regulatory and/or operational requirements. Any expansion footprint proposed for future treatment modifications submitted as part of the facility plan shall remain available to address any later identified need.
RESPONSE: To address the fate and transport of nutrients, these pollutants are being evaluated at the state and federal level. Evaluating future treatment needs during the facility plan phase for a project can potentially avoid costly future design hurdles. The rule language does not require the facility to use the available footprint for nutrient removal; it only ensures that sufficient footprint is available at the time of evaluation. No changes were made as a result of this comment.

COMMENT #2: Mr. Jay Hoskins with MSD commented that the title of subsection (8)(J) is unclear and requests clarification. If effluent quality is anticipated, it cannot already be achieved.
RESPONSE AND EXPLANATION OF CHANGE: The word "achieved" has been removed from the title of subsection (8)(J).

COMMENT #3: Ms. Sherri Stoner with Missouri Geological Survey (MGS) commented that there are discrepancies in text when a geohydrologic evaluation is needed and requested that we revise the rules to be consistent. Ms. Stoner noted discrepancies with subparagraph (5)(E)6.G., 10 CSR 20-8.200(2)(B), and 10 CSR 20-8.300(5)(A).
RESPONSE AND EXPLANATION OF CHANGE: Subparagraph (5)(E)6.G. of this rule and 10 CSR 20-8.200(2)(B) have been revised

to provide consistency.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing, and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word, as suggested by this comment. Based on this review the following changes have been made:

(7)(B)4. Clear and legible scaled site plans, drawings, or maps identifying all applicable site features that could impact the soil treatment area(s). Previously prepared or otherwise available drawings or maps such as a survey prepared by a Missouri registered professional surveyor; an aerial photograph; a United States Geological Survey topographic map with the proposed soil treatment area clearly delineated; a United States Department of Agriculture Natural Resources Conservation Services county soil survey map with the proposed soil treatment area clearly delineated; or a digital orthophotograph prepared from a geographical information system may be used. Must include the following on the drawings or maps:

(7)(B)5. A discussion of the findings and conclusions must include the following:

(7)(B)5. E. Frequency of flooding and ponding and the source of this information;

(7)(B)5. F. Relevant characteristics (e.g., bedrock outcrops, sinkholes or karst features) on the proposed site or in the surrounding area that may indicate vulnerability for surface water and groundwater contamination and the source of this information;

(7)(B)5. G. Factors affecting the soils ability to treat and hydrologically control effluent and the source of this information.

(8) Summary of Design. A summary of design shall accompany the plans and specifications and must include the following:

(9)(A) General.

(9)(A)1. Plan components must include the following components on all plan sheets:

(9)(A)2. Plan format must include clear and legible plans drawn to a scale that allows necessary information to be seen plainly. Blueprints and hand-drafted plans are not acceptable.

(9)(A)3. Plan contents must include detailed plans consisting of the following:

(9)(A)4. Hydraulic profile for all wastewater treatment facilities must be included; and

(9)(A)5. Plan for operation during construction must specify the procedure for operation during construction that complies with the plan outlined in paragraph (5)(E)15. and subsection (10)(C) of this rule.

COMMENT #5: The department received comments from Mr. Jesse Jefferson with regard to separation from habitation distance requirements for large facilities. Mr. Jefferson noted that the proposed distances will be either overly restrictive to small facilities, or not remotely appropriate for the larger facilities. The comment letter further stated that not having a specific numerical distance is not the same as not having the requirement for separation.
RESPONSE AND EXPLANATION OF CHANGE: 10 CSR 8.020, which is proposed for rescission, contained setback requirements for facilities with capacities less than twenty-two thousand five hundred (22,500) gallons per day. The proposed amendment extended the fifty (50)-foot separation distance from 10 CSR 20-8.020 to all facilities regardless of capacity. The department is reverting to the current separation requirements. These requirements will be added to 10 CSR 20-8.110(5)(E)6.A., 10 CSR 20-8.140(2)(C)2., and 10 CSR 20-8.140 (2)(C)3. For facilities with capacities greater than twenty-two thousand five hundred (22,500) gallons per day, a greater separation distance from habitation may be appropriate.

COMMENT #6: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #7: Department staff commented that the emergency operation requirement in (5)(E)11. referenced the incorrect section of 10 CSR 20-8.140. Department staff also commented regarding a numerical edit in (7)(C)1.–7.
RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (5)(E)11. was corrected to reference 10 CSR 20-8.140(7)(A). The rule reference in (7)(C)1.–7. has been corrected.

10 CSR 20-8.110 Engineering—Reports, Plans, and Specifications

(1) Applicability. Engineering reports and facility plans and specifications shall be prepared based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(5) Facility Plan. Facility plans shall include the following, in addition to the information in section (4) of this rule:

(E) Detailed Alternative Evaluation. Include the following for the alternatives to be evaluated in detail:

1. Collection system revisions. Evaluate the proposed revisions to the existing collection system including adequacy of portions not being changed by the project;

2. Wet weather flows. Provide facilities to transport and treat wet weather flows in a manner that complies with federal, state, and local regulations;

3. Evaluate the no-discharge option and include it as an alternative in the facility plan. Also refer to 10 CSR 20-6.010(4)(A)5;

4. Evaluate the regionalization option and include it as an alternative in the facility plan;

5. Include the information outlined in 10 CSR 20-8.200(2) when the project includes wastewater irrigation or subsurface soil dispersal;

6. Site Evaluation. Consider the following criteria during site evaluation. Take appropriate measures to minimize adverse impacts when a site is critical with respect to the following items:

A. Consider compatibility of the treatment process with the present and planned future land use, including noise, potential odors, air quality, and anticipated solids processing and disposal techniques. Wastewater treatment facilities should be separate from habitation or any area likely to be built up within a reasonable future period and shall be separated in accordance with state and local requirements. Refer to 10 CSR 20-8.140(2)(C) for minimum separation distances;

B. Identify zoning and other land use restrictions;

C. Evaluate the accessibility and topography of the site;

D. Identify areas for future facility expansion;

E. For flood protection, follow the provisions listed in 10 CSR 20-8.140(2)(B);

F. Include geologic information, depth to bedrock, karst features, or other geologic considerations of significance to the project;

G. A request for a geohydrologic evaluation conducted by the department's Missouri Geological Survey is required in the following instances:

(I) All new wastewater treatment facilities to identify stream determinations (gaining or losing);

(II) All new outfalls or relocated outfalls;

(III) All new or major modifications to earthen basin structures. Earthen basin structures shall not be located in areas receiving a severe collapse potential rating. Earthen basin structures located in areas receiving a severe overall geologic limitation rating are reviewed on a case-by-case basis. Earthen basin structures located in areas receiving a moderate collapse potential rating with an appropriate engineering solution are reviewed on a case-by-case basis; and

(IV) All new features (e.g. wastewater irrigation sites, subsurface soil dispersal sites);

H. Protection of groundwater including public and private wells shall be provided. When the proposed wastewater facilities will be near a water source or other drinking water facility, as determined by the Missouri Geological Survey or by the department's Public Drinking Water Branch, include an evaluation addressing the allowable distance between these wastewater facilities and the water source. Refer to 10 CSR 20-8.140(2)(C);

I. Determine the soil type and suitability for construction and depth to normal and seasonal high groundwater;

J. Submit a soil morphology analysis conducted by a qualified soil scientist for all subsurface soil dispersal systems. Refer to section (7) of this rule;

K. Identify the location, depth, and discharge point of any field tile or curtain drain in the immediate area of the proposed site;

L. Include the present and known future effluent quality and monitoring requirements;

M. Provide a discussion of receiving waterbody access for the outfall line; and

N. Include a preliminary assessment of site availability;

7. Engineering criteria. Provide the engineering criteria and assumptions used in the design of the project. Provide the basis for unit operation and preliminary unit process sizing;

8. Location Drawings. Provide drawings identifying the site of the project and anticipated location and alignment of proposed facilities;

9. Flow diagram. Provide a preliminary flow diagram of treatment facility alternatives, including all recycle flows;

10. Removal efficiencies. Provide estimated loadings to and removal efficiencies through each unit operation in addition to total removal efficiency and effluent quality (both concentrations and mass);

11. Emergency operation. Provide a discussion of emergency operation measures as outlined in 10 CSR 20-8.140(7)(A);

12. New and innovative technology. See section (6) of this rule. Provide a contingency plan, in the event that such new technology fails to meet the expected performance;

13. Nutrient removal. Provide a discussion of nutrient removal capabilities, including the footprint available for expansion or treatment facility modifications necessary for nutrient removal for each alternative;

14. Solids. Include the solids handling and disposal alternatives considered and method selected consistant with the requirements of 10 CSR 20-8.170 and any conditions in the NPDES permit;

15. Treatment during construction. Develop a plan for the method and level of treatment (including solids processing, storage, and disposal) to be achieved during construction and include it in the facility plan. Refer to paragraph (9)(A)5. and subsection (10)(C) of this rule;

16. Cost estimates. Present cost estimates for capital construction cost, annual operation and maintenance cost (including basis), and a twenty (20)-year present worth cost for each alternative;

17. Environmental review. Include any additional environmental information meeting the criteria in 10 CSR 20-4.050, for projects receiving funding through the state grant and loan programs; and

18. Water quality reports. Submit all reviews, studies, or reports in accordance with 10 CSR 20-7, Water Quality; and

(7) Soils Report.

(B) Soils Report. The soils report resulting from the investigation shall include the following information:

1. A copy of each soil profile description;

2. A description of all drainage features, rock outcrops, erosion, and other natural features that may influence the soil treatment area;

3. An evaluation of any identified limiting conditions or geologic risk factors affecting the soil's ability to treat and disperse effluent, such as karst features, dense tills, clay pans, and fragipans;

4. Clear and legible scaled site plans, drawings, or maps identifying all applicable site features that could impact the soil treatment area(s). Previously prepared or otherwise available drawings or maps such as a survey prepared by a Missouri registered professional surveyor; an aerial photograph; a United States Geological Survey topographic map with the proposed soil treatment area clearly delineated; a United States Department of Agriculture Natural Resources Conservation Services county soil survey map with the proposed soil treatment area clearly delineated; or a digital orthophotograph prepared from a geographical information system may be used. The following shall be included on the drawings or maps:

A. The location of all soil observation pits with the extent of different soils clearly delineated;

B. Any existing or proposed dwellings and structures;

C. Any site disturbances such as excavated or fill areas, existing roadways, and other hardscapes and proposed hardscapes, or related site disturbances;

D. Location of all public and private wells, abandoned wells, or geothermal systems, and surface water features that could either influence or be impacted by the proposed soil treatment area. For minimum separation distances, follow the provisions listed in 10 CSR 20-8.140(2)(C);

E. North orientation arrow;

F. Identification of areas with conditions that would prohibit, limit, or adversely impact the siting of a soil treatment area including, but not limited to: sinkholes, wetland vegetation, bedrock outcrops, areas with a slope greater than fifteen percent (15%), and existing or abandoned field or drainage tiles;

G. Identification of known existing, proposed, and observed easements and right-of-ways; and

5. A discussion of the findings and conclusions must include the following:

A. Available area for the soil treatment area;

B. Depth to limiting layers (e.g., water table, fragipan, bedrock) and the source of this information;

C. Proposed application (loading) rates that take into consideration the drainage and permeability of the soils and the distance to the limiting layer.

D. The source of the application rates for each soil horizon within the specific soil description;

E. Frequency of flooding and ponding and the source of this information;

F. Relevant characteristics (e.g., bedrock outcrops, sinkholes or karst features) on the proposed site or in the surrounding area that may indicate vulnerability for surface water and groundwater contamination and the source of this information; and

G. Factors affecting the soils ability to treat and hydrologically control effluent and the source of this information.

(C) Imported Soils. When a facility is importing soils for the subsurface soil dispersal systems, the following shall be specified:

1. Physical characteristics that are uniform in texture, structure, and pore space;

2. Transportation methods that ensures uniformity and consistency of the physical characteristics as close as possible to the original state upon delivery;

3. A sandy to loamy material, with less than ten percent (10%) clay and less than fifteen percent (15%) organic debris present;

4. Methods for removal of the organic layer;

5. No compaction of imported soil;

6. Placement in small "lift" increments of four to six inches (4"–6") instead of one (1) thick layer; and

7. Native soil is to be used for the vertical separation for the subsurface soil dispersal systems with the fill for the cap being imported soils.

(8) Summary of Design. A summary of design shall accompany the plans and specifications and must include the following:

(J) Anticipated effluent quality.

(9) Plans.

(A) General.

1. Plan components must include the following components on all plan sheets:

A. A suitable title block showing the name of the project, owner, and continuing authority (refer to 10 CSR 20-6.010(2) and 20 CSR 2030-2.050);

B. Scale ratios for mechanical drawings;

C. Bar scales for aerial maps;

D. A north arrow;

E. Datum used; and

F. Sheet numbers.

2. Plan format must include clear and legible plans drawn to a scale that allows necessary information to be seen plainly. Blueprints and hand-drafted plans are not acceptable.

3. Plan contents must include detailed plans consisting of the following:

A. Plan views, elevations, sections, and supplementary views, which together with the specifications and general layouts, provide the working information for the contract and construction of the facilities;

B. Dimensions and relative elevations of structures, the location and outline form of equipment, location and size of piping, water levels, and ground elevations;

C. All known existing structures and utilities, both above and below ground, that might interfere with the proposed construction or require isolation setback, particularly water mains and water supply structures (e.g., wells, clear wells, basins), gas mains, storm drains, and telephone, cable, and power conduits. Show the location of all existing and proposed water supply structures located within five hundred feet (500') of the proposed or existing wastewater treatment facility; and

D. Locations and logs of test borings, where applicable. Include test boring logs on the plans or in the specifications as an appendix.

4. Hydraulic profile for all wastewater treatment facilities must be included; and

5. Plan for operation during construction must specify the procedure for operation during construction that complies with the plan outlined in paragraph (5)(E)15. and subsection (10)(C) of this rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.120 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1680–1685). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Five (5) comments were received during the public hearing from Mr. Trent Stober with HDR Engineering, two (2) comments were received from Mr. Robert Brundage with Newman, Comley, and Ruth, and two (2) comments were received from Ms. Jeanne Heuser. The department received two (2) comment letters during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that according to the proposed language in subsection (4)(C), cleanouts on a pipe larger than eight inches (8") would be required to have a diameter equal to the pipe's diameter (i.e. a four-foot diameter pipe would have a four-foot diameter cleanout). MSD proposed language to clarify cleanout size requirements.
RESPONSE: Subsection (4)(C) was revised prior to public notice to clarify language regarding cleanout size requirements. No changes were made as a result of this comment.

COMMENT #2: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield suggested reinstating the minimum pipe size requirements and minimum pipe slope requirements. Mr. Errin Kemper with the city of Springfield also requested that language for minimizing solids deposition be reinstated in the rule.
RESPONSE AND EXPLANATION OF CHANGE: Reinstating the minimum pipe size and slope requirements would not be reasonable for all facilities and scenarios in Missouri. A minimum velocity requirement has been added to paragraph (3)(A)1. to ensure that pipes are sized appropriately and that solids deposition is minimized. Other recommended values for pipe sizing and slopes will be included as recommendations in a Design Guide document, which will be finalized in late 2018.

COMMENT #3: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield suggested including leakage test requirements regardless of pipe material, with PVC sewer pipe twenty-seven inches (27") or less in diameter specifically mentioned.
RESPONSE: Section 644.026(12), RSMo. states that manholes and polyvinyl chloride (PVC) pipe used for gravity sewers and with a diameter no greater than twenty-seven inches shall not be required to be tested for leakage. Since statutes override rules, we must comply with the statute. No changes were made as a result of this comment.

COMMENT #4: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield suggested reinstating minimum manhole diameters.
RESPONSE AND EXPLANATION OF CHANGE: Minimum manhole diameters have been reinstated into the rule in subsection (4)(C).

COMMENT #5: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield recommended reinstating manhole spacing requirements, but allowing for longer runs between manholes if sufficient justification is provided.
RESPONSE AND EXPLANATION OF CHANGE: A requirement that manholes be installed with appropriate spacing to allow

for sufficient cleaning and maintenance has been added at paragraph (4)(A)4. Recommended manhole spacing distances will be included in a Design Guide document, which will be finalized in late 2018.

COMMENT #6: Mr. Trent Stober with HDR Engineering commented that the requirement for installation per manufacturer's recommendation at subsection (3)(A) should be removed because an engineer may disagree with the recommendations.
RESPONSE AND EXPLANATION OF CHANGE: The requirement to comply with the appropriate manufacturer's recommendations and installation procedures has been removed from subsection (3)(A), and some of the previous language addressing installation has been reinstated.

COMMENT #7: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refer to "lagoons and wastewater irrigation alternatives."
RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.120(1) has also been revised.

COMMENT #8: Mr. Errin Kemper with the city of Springfield requested that language be added to section (1) stating that the requirements apply to all public sewerage works proposed to be newly constructed or altered in a manner to increase sewer capacity.
RESPONSE: This regulation is applicable to all wastewater systems utilizing gravity sewers. Existing systems are held to the standards that were in place at the time of construction. No changes were made as a result of this comment.

COMMENT #9: Mr. Errin Kemper with the city of Springfield requested that language that was removed regarding depth and buoyancy requirements for sewers be reinstated.
RESPONSE AND EXPLANATION OF CHANGE: Subparagraphs (3)(A)2. and (3)(A)3. have been revised to include depth and buoyancy requirements.

COMMENT #10: Mr. Errin Kemper with the city of Springfield requested that the language pertaining to manholes at changes in pipe size be reinstated.
RESPONSE: The proposed rule includes a requirement at paragraph (4)(A)2. that manholes be installed at all changes in size. Details about the design of manholes at changes in pipe size will be included in a Design Guide document, which will be finalized in late 2018. No changes were made as a result of this comment.

COMMENT #11: Mr. Errin Kemper with the city of Springfield recommended retaining and revising language regarding video inspections of rehabilitated sewer after installation.
RESPONSE: The language regarding video inspections in the existing rule is a recommendation and not a requirement. This recommendation will be retained in a Design Guide document, which will be finalized in late 2018. No changes were made as a result of this comment.

COMMENT #12: Mr. Errin Kemper with the city of Springfield recommended requiring more stringent leakage test requirements in subparagraph (3)(C)2.A. to not exceed fifty (50) gallons per inch of pipe diameter per mile per day regardless of pipe material instead of one hundred (100) gallons per inch of pipe diameter per mile per day.
RESPONSE: Variations in city-specific requirements are expected with some being more stringent than the state regulations. Cities may implement more stringent leakage requirements if they choose. No changes were made as a result of this comment.

COMMENT #13: Mr. Errin Kemper with the city of Springfield recommended reinstating the requirements for drop pipes in manholes.
RESPONSE: Paragraph (4)(B)1. has been revised to reinstate when drop pipes are required for manholes. More specific details about the design of drop pipes will be included as recommendations in a Design Guide document, which will be finalized in late 2018.

COMMENT #14: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: incorporations by reference in sections (3) and (4) of the rule.

COMMENT #15: Ms. Jeanne Heuser of Jamestown, Mo., stated that a representative from the City of Springfield made a comment at the public hearing about this rule, expressing concern about the changes proposed. He believed it limited human health protections compared to the original. Ms. Heuser stated that she trusts the opinion from someone well-versed in this work in the community. Ms. Heuser said that the rush to make changes and hit an arbitrary goal of reductions is interfering with having a thoughtful process, and is putting the public at risk.
RESPONSE: The department appreciates the concerns Ms. Heuser raised with respect to the protection of public health. The proposed changes establish minimum design standards for the protection of the environment and public health. Where appropriate, comments from the City of Springfield have been incorporated. In addition, engineering plans and specifications are required to be sealed by a Missouri registered engineer for all permitted facilities, whether a construction permit is required or not. No changes have been made as a result of this comment.

COMMENT #16: Ms. Jeanne Heuser of Jamestown, Mo., stated that these specific rules are so critical to human and environmental health in Missouri that the status quo should remain. Ms. Heuser said that we must have a more thoughtful process with additional stakeholders who have the time to understand the proposed changes and carefully consider the ramifications of the proposed changes.
RESPONSE: With respect to 10 CSR 20-8, the department has conducted many stakeholder meetings over the last four years. In addition to regulatory minimum design standards for the protection of public health and environment, the Department will also maintain a Design Guide document, which will be finalized in late 2018, to ensure that designs are complete with regard to aspects of design that do not directly affect public health and the environment. No changes have been made as a result of this comment.

COMMENT #17: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste

management systems were updated for consistency.

10 CSR 20-8.120 Gravity Sewers

(1) Applicability. Wastewater systems that utilize gravity sewers shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.
(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.
(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Details of Design and Construction.
(A) Installation. Installation specifications shall contain appropriate requirements based on the criteria, standards, and requirements established by industry in its technical publications. Requirements shall be set forth in the specifications for the pipe and methods of bedding and backfilling thereof, so as not to damage the pipe or its joints, impede cleaning operations, and future tapping, nor create excessive side fill pressures and ovalation of the pipe, nor seriously impair flow capacity.
1. Slope. All sewers shall be designed and constructed to give mean velocities, when flowing full, of not less than two feet (2') per second.
2. Depth. All sewers shall either be covered with at least thirty-six inches (36") of soil, or sufficiently insulated with other material to prevent freezing and to protect them from superimposed loads.
3. Buoyancy. Buoyancy of sewers shall be considered and flotation of the pipe shall be prevented with appropriate construction where high groundwater conditions are anticipated.
(C) Joints and Infiltration.
1. Service connections. Service connections to the sewer main shall be watertight and cannot protrude into the sewer.
2. Leakage tests. Leakage tests shall be specified for gravity sewers except polyvinyl chloride (PVC) pipe with a diameter of twenty-seven inches (27") or less.
A. Water (hydrostatic) test. The leakage exfiltration or infiltration shall not exceed one hundred (100) gallons per inch of pipe diameter per mile per day for any section between manholes of the system. An exfiltration or infiltration test shall be performed with a minimum positive head of two feet (2'). The exfiltration or infiltration test shall conform to the test procedure described in ASTM C969 – 17 *Standard Practice for Infiltration and Exfiltration Acceptance Testing of Installed Precast Concrete Pipe Sewer Lines*, as approved and published April 1, 2017, for precast concrete pipe. This standard shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.
B. Air test. The air test shall conform to the test procedure described in ASTM C1103 – 14 *Standard Practice for Joint Acceptance Testing of Installed Precast Concrete Pipe Sewer Lines*, as approved and published November 1, 2014, for concrete pipe twenty-seven inches (27") or greater in diameter, and ASTM F1417 – 11a(2015) *Standard Practice for Installation Acceptance of Plastic Non-pressure Sewer Lines Using Low-Pressure Air*, as approved and published August 1, 2015, for plastic, composite, and ductile iron pipe. These standards shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.
(D) Bore or Tunnel. Where casing pipe is utilized it shall be constructed of steel with welded joints conforming to AWWA C200-17 *Steel Water Pipe, 6 In. (150 mm) and Larger*, as approved and published August 1, 2017, or ductile iron pipe with mechanical joints. This standard shall hereby be incorporated by reference into this rule, as published by American Water Works Association (AWWA), 6666 West Quincy Avenue, Denver, CO 80235-3098. This rule does not incorporate any subsequent amendments or additions.

(4) Manholes.
(A) Location. Manholes shall be installed—
1. At the end of each line;
2. At all changes in grade, size, or alignment;
3. At all sewer pipe intersections; and
4. At distances appropriate to allow for sufficient cleaning and maintenance of sewer lines.
(B) Drop Type.
1. A drop pipe shall be provided for a sewer entering a manhole at an elevation of twenty-four inches (24") or more above the manhole invert.
2. When using precast manholes, drop connections must not enter the manhole at a joint.
(C) Diameter. The minimum diameter of manholes shall be forty-two inches (42") on eight-inch (8") diameter gravity sewer lines and forty-eight inches (48") on all sewer lines larger than eight inches (8") in diameter. A minimum access diameter of twenty-two inches (22") (56 cm) shall be provided. Cleanouts shall be a minimum of eight inches (8") for pipes eight inches (8") in diameter or larger and equal to the diameter for pipes less than eight inches (8").
(F) Inspection and Testing.
1. Vacuum testing, if specified for concrete sewer manholes, shall conform to the test procedures in ASTM C1244 – 11(2017) *Standard Test Method for Concrete Sewer Manholes by the Negative Air Pressure (Vacuum) Test Prior to Backfill*, as approved and published April 1, 2017, or the manufacturer's recommendation. This standard shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.
2. Exfiltration testing, if specified for concrete sewer manholes, shall conform to the test procedures in ASTM C969 – 17 *Standard Practice for Infiltration and Exfiltration Acceptance Testing of Installed Precast Concrete Pipe Sewer Lines*, as approved and published April 1, 2017. This standard shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission adopts a rule as follows:

10 CSR 20-8.125 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1685–1687). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this new rule was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were made at the public hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received one (1) comment letter

during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that a reference made in 10 CSR 20-8.130(7)(D) to 10 CSR 20-8.125(5)(A)5. seems to indicate that the department intended to include a requirement for locator wire installation on all force mains, as indicated in a previous stakeholder meeting on January 23, 2018. MSD requested that paragraph (5)(A)5. include a requirement that all pressure sewers be installed with locator wire to promote safety in increasingly crowded utility corridors.
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (5)(A)5. has been revised to include locator wire requirements for sewer lines installed in the public right-of-way to be consistent with section 319.033, RSMo.

COMMENT #2: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement in 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refer to "lagoons and wastewater irrigation alternatives."
RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.125(1) Applicability has also been revised.

COMMENT #3: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing, and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #5: Department staff commented that the security requirement in (4)(D) referenced the incorrect section of 10 CSR 20-8.140(7)(A).
RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (4)(D) was corrected to reference 10 CSR 20-8.140(8)(A).

COMMENT #6: Department staff commented that the word "is" was missing in (5)(B)3.
RESPONSE AND EXPLANATION OF CHANGE: The rule language in (5)(B)3. was corrected.

COMMENT #7: Department staff commented that the level controls in (5)(D)6 referenced the incorrect section of 10 CSR 20-8.130(5).
RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (5)(D)6. was corrected to reference 10 CSR 20-8.130(3)(C).

COMMENT #8: Department staff commented that the electrical equipment in (5)(D)7 referenced the incorrect section of 10 CSR 20-8.130(3)(C).
RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (5)(D)7. was corrected to reference 10 CSR 20-8.130(3)(B)2.

COMMENT #9: Department staff commented that the leakage test in (7)(A)3 referenced the incorrect section of 10 CSR 20-8.120(3)(B).
RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (7)(A)3. was corrected to reference 10 CSR 20-8.120(3)(C)2.

10 CSR 20-8.125 Alternative Sewer Systems

(1) Applicability. Wastewater systems that utilize alternative sewer systems shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.
(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.
(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(4) General.
(D) Security. For fencing criteria, follow the provisions in 10 CSR 20-8.140(8)(A).

(5) Pressure Sewers.
(A) Sewer Design.
1. Velocity. Design shall be based on the most probable number of pumping units expected to operate simultaneously or on some other acceptable method of computing the peak pumpage rate.
A. A cleansing velocity of at least two feet per second (2 ft/s), at least once and preferably several times per day, shall be achieved.
2. Minimum size. The minimum diameter sewer main pipe shall not be less than one and a half inches (1.5").
3. Installation. For sewer installation, follow the provisions in 10 CSR 20-8.120(3).
4. Hydrostatic pressure test. The applicant must comply with the manufacturer's recommended testing procedures.
5. Locator Wire. Locator wire must be utilized when sewer lines are installed within the public right-of-way in accordance with Section 319.033, RSMo.
(B) Sewer Appurtenances. Appurtenances shall be compatible with the piping system and full bore with smooth interior surfaces to eliminate obstruction and keep friction loss to a minimum.
1. Isolation valves shall be—
A. Comprised of resilient seated gate valve or ball valve with a position indicator;
B. Constructed from corrosion resistant materials; and
C. Enclosed in a watertight and lockable valve box.
2. Isolation valves shall be installed on—
A. The upstream side of major pipe intersections;
B. Both sides of stream, bridge, and railroad crossings, and unstable soil; and
C. The terminal end of the system to facilitate future extensions.
3. Proper support (e.g., crushed stone, concrete pads, or a well compacted trench bottom) shall be provided for valves so the weight of the valve is not carried by the pipe.
(D) Grinder Pump Stations.
1. Number of pumps.
A. Simplex grinder pump station shall—
(I) Not serve multiple equivalent dwelling units (EDU) if owned, operated, and maintained by individual homeowners; and
(II) Not serve commercial facilities.
B. Multiple unit grinder pump stations must be owned, operated, and maintained by an approved continuing authority. See subsection

(4)(A) of this rule for more continuing authority information.

2. Grinder pump vaults shall be watertight.

3. Storage volume. A grinder pump vault shall have a storage volume of at least seventy (70) gallons.

4. Valves. The following valves must be provided in the grinder pump vaults:

A. A shutoff valve accessible from the ground surface;

B. A check valve to prevent backflow; and

C. An anti-siphon valve, where siphoning could occur.

5. Grinder pump construction. For design of pumps and motors, follow the provisions in 10 CSR 20-8.130(5).

6. Controls. For water level control design, follow the provisions in 10 CSR 20-8.130(3)(C).

7. Electrical equipment. For electrical equipment, follow the provisions in 10 CSR 20-8.130(3)(B)2.

8. Emergency operations. When the continuing authority operates and maintains the grinder pump stations, provisions must be made for periods of mechanical or power failure.

(7) Septic Tank Effluent Gravity (STEG) Sewers.

(A) Sewer Design.

1. Minimum size. The minimum diameter sewer main pipe shall not be less than four inches (4").

2. Installation. Follow the provisions in 10 CSR 20-8.120(3)(A).

3. Leakage tests. Follow the provisions in 10 CSR 20-8.120(3)(C)2.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.130 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1687–1692). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Comments were received during the public hearing from Mr. Trent Stober with HDR Engineering and Mr. Robert Brundage with Newman, Comley, and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Trent Stober with HDR Engineering commented that all provisions for emergency operation appear to have been eliminated and replaced with alarm and portable pump connection requirements. Mr. Stober and Mr. Errin Kemper with the city of Springfield recommended keeping standby power, standby engine-driven pumping, storage, or second utility source requirements for emergency operation.

RESPONSE AND EXPLANATION OF CHANGE: Emergency operations requirements have been added to section (7) and subsequent numbering has been revised.

COMMENT #2: Mr. Mark Meyer with Enviro-Line commented that a requirement for pumps in pump stations to be capable of passing three-inch non-compressible solids should be retained in the rule to avoid problems with increased plugging, but that an allowance for Septic Tank Effluent Pumping (STEP), irrigation pumps, or pumps following primary settling tanks needs to also be included.

RESPONSE: The amended rules are intended to provide an accepted and uniform minimum set of standards. Deviations will not be allowed because the proposed rules only mandate minimum design standards. There would need to be several exceptions to a three-inch requirement, and therefore, the suggested requirement does not match the intended purpose of the minimum design standards. A recommendation on sizing will be included in a Design Guide document, which will be finalized in late 2018. When asking for pumps, engineers should specify to their supplier the appropriate pump design for the application. No changes have been made to the rule as a result of this comment.

COMMENT #3: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: 10 CSR 20-8.130(1) Applicability has been revised.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth had some general comments regarding the Red Tape Reduction rule review. He felt it would be difficult to quantify the removal of regulatory requirements to achieve a thirty percent (30%) reduction in restrictive terms. He noted that the department removed the word "shall" and just rewrote sentences, which ultimately didn't remove the regulation, just camouflaged them. He asked that the department go back and review the Red Tape Reduction changes and add them back into the rules.

RESPONSE AND EXPLANATION OF CHANGE: The department has reviewed and corrected the rules to include restrictive language where appropriate, including revisions to housed wet wells in (2)(B), electrical controls in (3)(B), water supply in (3)(G), and wet well access in (4)(C).

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #6: Department staff comment that the potable water separation distance in (2)(D) referenced the incorrect section of 10 CSR 23-3.010(2)(A)5.

RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (2)(D) was corrected to reference 10 CSR 23-3.010(1)(B).

10 CSR 20-8.130 Pumping Stations

(1) Applicability. Wastewater systems that utilize pumping stations

shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(2) General.

(D) Potable Water Sources. The distance between wastewater pumping stations and all potable water sources shall be at least fifty feet (50') in accordance with 10 CSR 23-3.010(1)(B).

(E) Housed Wet Wells. Housed wet well ventilation shall be in accordance with 10 CSR 20-8.140(8)(J).

(3) Design.

(B) Pumps.

1. Multiple units. Multiple pumps shall be provided except for design average flows of less than fifteen hundred (1,500) gallons per day.

2. Electrical equipment. Electrical equipment shall be provided with the following requirements:

A. Electrical equipment must comply with 10 CSR 20-8.140(7)(B);

B. Utilize corrosive resistant equipment located in the wet well;

C. Provide a watertight seal and separate strain relief for all flexible cable;

D. Install a fused disconnect switch located above ground for the main power feed for all pumping stations.

E. When such equipment is exposed to weather, it shall comply with the requirements of weather proof equipment; enclosure NEMA 4; NEMA 4X, where necessary; and *NEMA Standard 250-2014*, published December 15, 2014. This standard shall hereby be incorporated by reference into this rule, as published by National Electrical Manufacturers Association, 1300 North 17th Street, Arlington, VA 22209. This rule does not incorporate any subsequent amendments or additions;

F. Install lightning and surge protection systems;

G. Install a one hundred ten volt (110 V) power receptacle inside the control panel located outdoors to facilitate maintenance; and

H. Provide Ground Fault Circuit Interruption (GFCI) protection for all outdoor receptacles.

(G) Water Supply. There shall be no physical connection between any potable water supply and a wastewater pumping station, which under any conditions, might cause contamination of the potable water supply. If a potable water supply is brought to the station, it shall comply with conditions stipulated under 10 CSR 20-8.140(7)(D).

(4) Suction Lift Pumps.

(C) Wet Well Access. Wet well access shall not be through the equipment compartment. Access shall be provided in accordance with paragraph (3)(A)2. of this rule.

(7) Emergency Operation.

(A) In addition to the required emergency means of operation and a storage/detention basin or tank, the following minimum retention time shall be provided:

1. For facilities with a design average flow of one hundred thousand (100,000) gallons per day or greater, a storage capacity for two-(2-) hour retention of the peak hourly flow; or

2. For facilities with a design average flow of less than one hundred thousand (100,000) gallons per day, a storage capacity for four-(4-) hour retention of the peak hourly flow.

(B) Independent Utility Substations. Where independent substations are used for emergency power, each separate substation and its associated distribution lines shall be capable of starting and operating the pump station at its rated capacity.

(8) Force Mains.

(A) Design. Force main system shall be designed to withstand all pressures (including water hammer and associated cyclic reversal of stresses), and maintain a velocity of at least two feet (2') per second.

(B) Installation. For installation follow the provisions in 10 CSR 20-8.120(3)(A).

(C) Protection of Water Supplies. For separation between water mains and sanitary sewer force mains follow the provisions in 10 CSR 20-8.120(5).

(D) Locator wire. For locator wire follow the provisions in 10 CSR 20-8.125(5)(A)5.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under section 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.140 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1692–1699). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received three (3) comment letters during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) recommended that the rule be clarified by defining what qualifies as a "residence." MSD suggests that the rule include a reference to 10 CSR 20-2.010 for the definition of a residence.
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (2)(C)2. was revised to include a reference to section 10 CSR 20-2.010(68) for the definition of a residence.

COMMENT #2: Mr. Jay Hoskins with MSD recommended that paragraph (2)(C)2. Table 140-1 be revised so that separation distances are measured from the property line to the treatment unit footprint, not from the nearest residence to the treatment unit footprint.
RESPONSE: Changing the separation distances from residence to property line would not be reasonable for all facilities in Missouri. If counties or municipalities have concerns or anticipate future growth in their area, they may self-impose buffer distances to their property lines. No changes have been made to the rule as a result of this comment.

COMMENT #3: Mr. Jesse Jefferson provided comments with regard to separation from habitation distance requirements for large facilities. Mr. Jefferson noted that the proposed distances will be either overly restrictive to small facilities, or not remotely appropriate for the larger facilities. The comment letter further stated that not having a specific numerical distance is not the same as not having the requirement for separation.
RESPONSE AND EXPLANATION OF CHANGE: 10 CSR 20-8.020,

which is proposed for rescission, contained setback requirements for facilities with capacities less than twenty-two thousand five hundred (22,500) gallons per day. The proposed amendment extended the fifty-foot separation distance from 10 CSR 20-8.020 to all facilities regardless of capacity. The department is reverting to the current separation requirements. These requirements will be added to 10 CSR 20-8.110(5)(E)6.A., 10 CSR 20-8.140(2)(C)2., and 10 CSR 20-8.140(2)(C)3. For facilities with capacities greater than twenty-two thousand five hundred (22,500) gallons per day, a greater separation distance from habitation may be appropriate.

COMMENT #4: Mr. Jay Hoskins with MSD recommended that the conditions under which facilities should be readily accessible in subsection (2)(D) be changed from "all weather" to "at all times" to ensure that facilities are accessible during a variety of conditions, not limited to weather, such as road closure to the facility.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (2)(D) was revised to replace "all weather" with "at all times."

COMMENT #5: Mr. Jay Hoskins with MSD noted that the reference in subsection (4)(D) to subsection (6)(C) was not the correct reference with regard to alarm systems.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(D) was revised to replace the reference to subsection (6)(C) with a reference to subsection (7)(C).

COMMENT #6: Mr. Jay Hoskins with MSD commented that the storage temperature requirements in paragraph (9)(B)12. should be selected while taking into consideration the manufacturer's recommendations for specific chemicals.
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (9)(B)12. was revised to require storage temperatures in accordance with the relevant Material Safety Data Sheet (MSDS).

COMMENT #7: Mr. Jay Hoskins with MSD noted that the reference in subsection (7)(G) to subsection (7)(J) is not correct, as subsection (7)(J) does not exist.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (7)(G) was revised to reference subsection (8)(J).

COMMENT #8: Mr. Errin Kemper with the City of Springfield recommended reinstating the language pertaining to emergency power facilities that was originally in section (8).
RESPONSE: Requirements for emergency power facilities were already retained in section (7). More detailed information about methods of providing alternate power will be included in a Design Guide document, which will be finalized in late 2018. No changes have been made to the rule as a result of this comment.

COMMENT #9: Department staff commented that the references in the published rule to section (7) in regards to safety requirements was an incorrect reference and should be section (8).
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (4)(A)2. and subsection (9)(D) were updated.

COMMENT #10: Department staff commented that the reference in the published rule to subsection (6)(B), electrical controls, and (6)(D), water supply, were incorrect references and should be (7)(B) and (7)(D).
RESPONSE AND EXPLANATION OF CHANGE: Subsections (8)(G)–(K) and (9)(B)8. were updated to correct the reference.

COMMENT #11: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in paragraph (4)(A)3. and subsections (7)(B) and (8)(M) and a clarification was made to (9)(C)13.

COMMENT #12: Ms. Arlene Sandler commented that a suggested change makes it easier to become a waste management system operator and that CAFOs should be held to the strictest environmental requirements, not merely minimum requirements. Ms. Sandler said that these facilities have the potential to pollute groundwater and should not be given the easiest path.
RESPONSE: This comment appears to be referring to operator certification requirements for concentrated animal feeding operation waste management systems, which is covered in 10 CSR 20-14.010. This comment will be addressed in a rulemaking for that rule. No changes have been made to this rule as a result of this comment.

COMMENT #13: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.140 Wastewater Treatment Facilities

(1) Applicability. Wastewater systems shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(2) General.

(C) Minimum Separation Distances.

1. Potable water sources. Unless another distance is determined by the Missouri Geological Survey or by the department's Public Drinking Water Branch, the minimum distance between wastewater treatment facilities and all potable water sources shall be at least three hundred feet (300').

2. Residences. No treatment unit with a capacity of twenty-two thousand five hundred gallons per day (22,500 gpd) or less shall be located closer than the minimum distance provided in Table 140-1 below. See 10 CSR 20-2.010(68) for the definition of a residence.

Table 140-1. Minimum Separation Distance for 22,500 gal/d or less.

Type of Facility	Separation Distance
Lagoons	200' to a neighboring residence and 50' to property line
Open recirculating media filters following primary treatment	200' to a neighboring residence
All other discharging facilities	50' to a neighboring residence

3. Plant Location. The following items shall be considered when selecting a plant site: proximity to residential areas; direction of prevailing winds; accessibility by all-weather roads; area available for expansion; local zoning requirements; local soil characteristics, geology, hydrology and topography available to minimize pumping; access to receiving stream; downstream uses of the receiving stream and compatibility of the treatment process with the present and planned future land use, including noise, potential odors, air quality and anticipated sludge processing and disposal techniques. Where a site must be used which is critical with respect to these items, appropriate measures shall be taken to minimize adverse impacts.

(D) Accessibility. Facilities shall be readily accessible by authorized personnel from a public right-of-way at all times.

(4) Pump and Haul.

(A) General.

1. Accessibility. Conform to subsection (2)(D) of this rule.

2. Security. Follow the provisions in subsection (8)(A) of this rule for fencing.

3. Protection of water supplies. Separation and crossing of water supplies shall be in accordance with subsection (2)(C) of this rule and 10 CSR 20-8.120(5).

(D) Alarm system. The alarm shall be activated in cases of high water levels. Follow the provisions in subsection (7)(C) of this rule for alarm systems.

(7) Essential Facilities.

(B) Electrical Controls. Electrical systems and components in raw wastewater or in enclosed or partially enclosed spaces where hazardous concentrations of flammable gases or vapors that are normally present, shall comply with the NFPA 70 *National Electric Code (NEC)* (2017 Edition), as approved and published August 24, 2016, requirements for Class I, Division 1, Group D locations. This standard shall hereby be incorporated by reference in this rule, as published by National Fire Protection Association® (NFPA), 1 Batterymarch Park, Quincy, MA 02169-7471. This rule does not incorporate any subsequent amendments or additions.

(G) Housed Facilities. Where wastewater treatment units are in a housed facility, follow the provisions in subsection (8)(J) of this rule for ventilation.

(8) Safety. Adequate provisions shall be made to effectively protect facility personnel and visitors from hazards. The following shall be provided to fulfill the particular needs of each wastewater treatment facility:

(G) Portable lighting equipment complying with NEC requirements. See subsection (7)(B) of this rule;

(H) Gas detectors listed and labeled for use in NEC Class I, Division 1, Group D locations. See subsection (7)(B) of this rule;

(I) Appropriately-placed warning signs for slippery areas, non-potable water fixtures (see subparagraph (7)(D)3.B. of this rule), low head clearance areas, open service manholes, hazardous chemical storage areas, flammable fuel storage areas, high noise areas, etc.;

(J) Ventilation. Ventilation shall include the following:

1. Isolate all pumping stations and wastewater treatment components installed in a building where other equipment or offices are located from the rest of the building by an air-tight partition, provide separate outside entrances, and provide separate and independent fresh air supply;

2. Force fresh air into enclosed screening device areas or open pits more than four feet (4') deep. Also see 10 CSR 20-8.130(3)(F);

3. Dampers. Dampers are not to be used on exhaust or fresh air ducts. Avoid the use of fine screens or other obstructions on exhaust or fresh air ducts to prevent clogging;

4. Continuous ventilation. Where continuous ventilation is needed (e.g., housed facilities), provide at least twelve (12) complete air changes per hour. Where continuous ventilation would cause excessive heat loss, provide intermittent ventilation of at least thirty (30) complete air changes per hour when facility personnel enter the area. Base air change demands on one hundred percent (100%) fresh air;

5. Electrical controls. Mark and conveniently locate switches for operation of ventilation equipment outside of the wet well or building. Interconnect all intermittently operated ventilation equipment with the respective wet well, dry well, or building lighting system. The manual lighting/ventilation switch is expected to override the automatic controls. For a two (2) speed ventilation system with automatic switch over where gas detection equipment is installed, increase the ventilation rate automatically in response to the detection of hazardous concentrations of gases or vapors; and

6. Fans, heating, and dehumidification. Fabricate the fan wheel from non-sparking material. Provide automatic heating and dehumidification equipment in all dry wells and buildings. Follow the provisions in subsection (7)(B) of this rule for electrical controls;

(K) Explosion-proof electrical equipment, non-sparking tools, gas detectors, and similar devices, in work areas where hazardous conditions may exist, such as digester vaults and other locations where potentially explosive atmospheres of flammable gas or vapor with air may accumulate. See subsection (7)(B) of this rule;

(M) Provisions for an arc flash hazard analysis and determination of the flash protection boundary distance and type of PPE to reduce exposure to major electrical hazards in accordance with NFPA 70E *Standard for Electrical Safety in the Workplace* (2018 Edition), as approved and published August 21, 2017. This standard shall hereby be incorporated by reference in this rule, as published by National Fire Protection Association®, 1 Batterymarch Park, Quincy, MA 02169-7471. This rule does not incorporate any subsequent amendments or additions.

(9) Chemical Handling.

(B) Chemical Housing. The following shall be provided to fulfill the particular needs of each chemical housing facility:

1. Provide storage for a minimum of thirty (30) days' supply, unless local suppliers and conditions indicate that such storage can be reduced without limiting the supply;

2. Construct the chemical storage room of fire and corrosion resistant material;

3. Equip doors with panic hardware. To prevent unauthorized access, doors lock but do not need a key to exit the locked room using the panic hardware;

4. Provide chemical storage areas with drains, sumps, finished water plumbing, and the hose bibs and hoses necessary to clean up spills and to wash equipment;

5. Construct chemical storage area floors and walls of material that is suitable to the chemicals being stored and that is capable of being cleaned;

6. Install floor surfaces to be smooth, chemical resistant, slip resistant, and well drained with three inches per ten feet (3"/10') minimum slope;

7. Provide adequate lighting;

8. Comply with the NEC recommendation for lighting and electrical equipment based on the chemicals stored. See subsection (7)(B) of this rule;

9. Store chemical containers in a cool, dry, and well-ventilated area;

10. Design vents from feeders, storage facilities, and equipment exhaust to discharge to the outside atmosphere above grade and remote from air intakes;

11. Locate storage area for chemical containers out of direct sunlight;

12. Maintain storage temperatures in accordance with relevant Material Safety Data Sheets (MSDS);

13. Control humidity as necessary when storing dry chemicals;

14. Design the storage area with designated areas for "full" and "empty" chemical containers;

15. Provide storage rooms housing flammable chemicals with an automatic sprinkler system designed for four tenths gallons per minute per square foot (0.4 gpm/ft^2) and a minimum duration of twenty (20) minutes;

16. Store incompatible chemicals separately to ensure the safety

of facility personnel and the wastewater treatment system. Store any two (2) chemicals that can react to form a toxic gas in separate housing facilities;

17. Design and isolate areas intended for storage and handling of chlorine and sulfur dioxide and other hazardous gases. Follow the provisions in 10 CSR 20-8.190(3) and 10 CSR 20-8.190(4) for chlorine and dechlorination;

18. Design an isolated fireproof storage area and explosion proof electrical outlets, lights, and motors for all powdered activated carbon storage and handling areas in accordance with federal, state, and local requirements;

19. Vent acid storage tanks to the outside atmosphere, but not through vents in common with day tanks;

20. Keep concentrated acid solutions or dry powder in closed, acid-resistant shipping containers or storage units; and

21. Pump concentrated liquid acids in undiluted form from the original container to the point of treatment or to a covered storage tank. Do not handle in open vessels.

(C) Chemical Handling Design. The following shall be provided, where applicable, for the design of chemical handling:

1. Make provisions for measuring quantities of chemicals used for treatment or to prepare feed solutions over the range of design application rates;

2. Select storage tanks, piping, and equipment for liquid chemicals specific to the chemicals;

3. Install all liquid chemical mixing and feed installations on corrosion resistant pedestals;

4. Provide sufficient capacity of solution storage or day tanks feeding directly for twenty-four- (24-) hour operation at design average flow;

5. Provide a minimum of two (2) chemical feeders for continuous operability. Provide a standby unit or combination of units of sufficient capacity to replace the largest unit out-of-service;

6. Chemical feeders shall—

A. Be designed with chemical feed equipment to meet the maximum dosage requirements for the design average flow conditions;

B. Be able to supply, at all times, the necessary amounts of chemicals at an accurate rate throughout the range of feed;

C. Provide proportioning of chemical feed to the rate of flow where the flow rate is not constant;

D. Be designed to be readily accessible for servicing, repair, and observation;

E. Protect the entire feeder system against freezing;

F. Be located adjacent to points of application to minimize length of feed lines;

G. Provide for both automatic and manual operation for chemical feed control systems;

H. Utilize automatic chemical dose or residual analyzers, and where provided, include alarms for critical values and recording charts;

I. Provide screens and valves on the chemical feed pump suction lines; and

J. Provide an air break or anti-siphon device where the chemical solution enters the water stream;

7. Dry chemical feed system shall—

A. Be equipped with a dissolver capable of providing a minimum retention period of five (5) minutes at the maximum feed rate;

B. Be equipped with two (2) solution vessels and transfer piping for polyelectrolyte feed installations;

C. Have an eductor funnel or other appropriate arrangement for wetting the polymer during the preparation of the stock feed solution on the makeup tanks;

D. Provide adequate mixing by means of a large diameter, low-speed mixer;

E. Make provisions to measure the dry chemical volumetrically or gravimetrically; and

F. Completely enclose chemicals and prevent emission of dust;

8. Provide for uniform strength of solution consistent with the nature of the chemical solution for solution tank dosing;

9. Use solution feed pumps to feed chemical slurries that are not diaphragm or piston type positive displacement types;

10. Provide continuous agitation to maintain slurries in suspension;

11. Provide a minimum of two (2) flocculation tanks or channels having a combined detention period of twenty to thirty (20 – 30) minutes. Provide independent controls for each tank or channel;

12. Insulate pipelines carrying soda ash at concentrations greater than twenty percent (20%) solution to prevent crystallization; and

13. Prohibit bagging soda ash in a damp or humid place.

(D) Chemical Safety. The following shall be provided in addition to the safety provisions in section (8) of this rule:

1. Appropriate personal protective equipment (PPE).

2. Eye wash fountains and safety showers. Eye wash fountains and safety showers utilizing potable water shall be provided in the laboratory and on each level or work location involving hazardous or corrosive chemical storage, mixing (or slaking), pumping, metering, or transportation unloading. The design of eye wash fountains and safety showers shall include the following:

A. Eye wash fountains with water of moderate temperature, fifty degrees to ninety degrees Fahrenheit (50°–90°F), suitable to provide fifteen to thirty (15–30) minutes of continuous irrigation of the eyes;

B. Emergency showers capable of discharging twenty gallons per minute (20 gpm) of water of moderate temperature, fifty degrees to ninety degrees Fahrenheit (50°–90°F), and at pressures of thirty to fifty pounds per square inch (30–50 psi);

C. Eye wash fountains and emergency showers located no more than twenty-five feet (25') from points of hazardous chemical exposure; and

D. Eye wash fountains and showers that are to be fully operable during all weather conditions; and

3. Warning signs. Warning signs requiring use of goggles shall be located near chemical stations, pumps, and other points of frequent hazard.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under section 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.150 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1699–1702). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that in subsection (4)(B), the last sentence about freeze protection can be deleted as it is redundant with 10 CSR 20-8.150(4)(A)1.

RESPONSE AND EXPLANATION OF CHANGE: Paragraph

(4)(A)1. has been changed to reflect that all screening devices and screening storage areas need to be protected from freezing. The redundant last sentence in subsection (4)(B) has been deleted.

COMMENT #2: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refers to "lagoons and wastewater irrigation alternatives."
RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.150(1) has also been revised.

COMMENT #3: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change was made: language was changed in section (3) Grease Interceptors.

COMMENT #4: An error was noted by department staff in section (6) with the word "for" used, where the word "or" should have been used. Additionally, it was noted that this sentence was poorly worded and confusing.
RESPONSE AND EXPLANATION OF CHANGE: Section (6) has been revised to clarify the meaning.

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.150 Preliminary Treatment

(1) Applicability. Wastewater systems that utilize preliminary treatment shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.
(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.
(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Grease Interceptors. Grease interceptors shall be provided on kitchen drain lines from institutions, hospitals, hotels, restaurants, schools, bars, cafeterias, clubs, and other establishments from which relatively large amounts of grease may be discharged to a wastewater treatment facility owned by the grease-producing entity. Grease interceptors are typically constructed from fiberglass reinforced polyester, high density polyethylene (HDPE), or concrete. For corrugated HDPE grease interceptors, follow *ASTM F2649 – 14 Standard Specification for Corrugated High Density Polyethylene (HDPE) Grease Interceptor Tanks*, as approved and published September 1, 2014. For precast concrete grease interceptor tanks, follow *ASTM C1613 – 17 Standard Specification for Precast Concrete Grease Interceptor Tanks*, as approved and published September 1, 2017. These standards shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.

(4) Screening Devices.
(A) General.
1. Freeze protection. All screening devices and screening storage areas shall be protected from freezing.
2. Provisions shall be made for isolating or removing screening devices from their location for servicing.
3. Safety.
A. Railings and gratings.
(I) Manually cleaned screen channels shall be protected by guard railings and deck gratings with adequate provisions for removal or opening to facilitate raking.
(II) Mechanically cleaned screen channels shall be protected by guard railings and deck gratings. Give consideration to temporary access arrangements to facilitate maintenance and repair.
B. Mechanical devices.
(I) Mechanical screening equipment shall have adequate removal enclosures to protect facility personnel against accidental contact with moving parts and to prevent dripping in multi-level installations.
(II) A positive means of locking out each mechanical device shall be provided.
(III) An emergency stop button with an automatic reverse function shall be located in close proximity to the mechanical device.
C. Electrical Equipment, Fixtures, and Controls. Electrical equipment, fixtures, and controls in screening area where hazardous gases may accumulate shall meet the requirements of the electrical code referenced in 10 CSR 20-8.140(7)(B).
(B) Screens. Where two (2) or more mechanically cleaned screens are used, the design shall provide for taking the largest unit out-of-service without sacrificing the capability to handle the average design flow. Where only one mechanically cleaned screen is used, it shall be sized to handle the design peak instantaneous flow.

(6) Grit removal facilities are required for wastewater treatment facilities that—
(A) Utilize membrane bioreactors for secondary treatment;
(B) Utilize anaerobic digestion;
(C) Receive wastewater from combined sewers; or
(D) Receive wastewater from collection systems that receive substantial amounts of grit.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.160 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1702–1705). Those sections with changes are reprinted

here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Three (3) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth, and three (3) comments were received from Mr. Trent Stober with HDR Engineering. The department received one comment letter from one individual during the public comment period.

COMMENT #1: Mr. Byron Shaw with MECO Engineering commented on the seven foot (7') minimum side water depth for final settling tanks following activated sludge processes ($>$100,000 gpd) in Table 160-1. in subsection (3)(A). Mr. Shaw stated this is very difficult to achieve with very small flows, and recommend not setting a minimum side water depth for very small flows.
RESPONSE AND EXPLANATION OF CHANGE: The minimum side water depth for final settling tanks following activated sludge and attached growth biological reactors that are less than one hundred thousand (100,000) gpd has been removed.

COMMENT #2: Mr. Trent Stober with HDR Engineering recommended adding provisions at paragraph (3)(B)1. for chemically enhanced primary treatment to allow for higher surface overflow rates with justification from an engineer.
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (3)(B)1. Table 160-2. has been revised to include requirements specific to chemically enhanced primary treatment.

COMMENT #3: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield commented on the surface overflow rates and peak solids loading rates in paragraph (3)(B)3. Table 160-3. Mr. Stober questioned why some require less than one thousand (1,000) gpd/ft^2 and why some are allowed up to forty (40) lb/day/ft^2. Mr. Stober and Mr. Kemper recommended revising the surface overflow rate to one thousand (1,000) gpd/ft^2 for Multi-Stage Nitrification and Activated Sludge with Chemical addition to Mixed Liquor for Phosphorus removal. Mr. Kemper suggested using a peak solids loading rate of thirty-five (35) lbs/day/sq. ft for all processes.
RESPONSE: Values for surface overflow rates and peak solids loading rates were selected with consideration of values in Metcalf & Eddy's *Wastewater Engineering Treatment and Reuse* and the 10 States Standards *Recommended Standards for Wastewater Facilities*. No changes were made as a result of this comment.

COMMENT #4: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield commented that the minimum slope requirement for clarifier floors in subsection (4)(A) of one (1) vertical to (12) twelve horizontal does not allow for suction style clarifier design and should be amended to allow one sixteenth of an inch per foot for suction style sludge removal.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(A) has been revised to address suction style sludge removal for settling tanks.

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refer to "lagoons and wastewater irrigation alternatives."
RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.160(1) has also been revised.

COMMENT #6: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made to this rule.

COMMENT #7: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #8: Department staff noted a grammatical error in subsection (4)(B) related to spelling out a numerical ratio.
RESPONSE AND EXPLANATION OF CHANGE: Department staff has corrected this.

10 CSR 20-8.160 Settling

(1) Applicability. Wastewater systems that utilize settling shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.
(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.
(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Design.
(A) Side Water Depth. The minimum side water depth shall be as follows in Table 160-1 below:

Table 160-1. Minimum Side Water Depth.

Type of Settling Tank	Minimum Side Water Depth (ft)
Primary (>100,000 gpd)	10
Primary (<100,000 gpd)	7
Final following activated sludge process	12
Final following attached growth biological reactor (>100,000 gpd)	10

(B) Surface Overflow Rates.
1. Primary settling tanks. Calculate the surface overflow rates for both design average flow and design peak hourly flow from Table 160-2 below. The larger area shall determine the size of the settling tank.

Table 160-2. Maximum Primary Settling Tank Surface Overflow Rates.

Type of Primary Settling Tank	Surface Overflow Rates[1]: At Design Average Flow (gpd/ft^2)	At Design Peak Hourly Flow (gpd/ft^2)
Tanks not receiving waste activated sludge	1,000	3,000
Tanks receiving waste activated sludge	700	1,700
Chemically enhanced	1,400	1,500

[1] Calculate surface overflow rates with all flows received at the settling tanks.

2. Final settling tanks – attached growth biological reactors. Surface overflow rates for settling tanks following attached growth biological reactors shall not exceed one thousand two hundred gallons per day per square foot (1,200 gpd/ft^2) based on the design peak hourly flow.

3. Final settling tanks – activated sludge. The following design criteria in Table 160-3, included herein, shall not be exceeded:

Table 160-3. Maximum Activated Sludge Final Settling Tank Rates.

Treatment Process	Surface Overflow Rate at Design Peak Hourly Flow[1] (gpd/ft^2)	Peak Solids Loading Rate[2] (lb/day/ft^2)
With diurnal flow equalization[3]	1,000	35
Without diurnal flow equalization[3]	150 x Peaking Factor[4]	35
Conventional, Step Aeration, Complete Mix, Contact Stabilization, Carbonaceous Stage of Separate Stage Nitrification	1,200 [5]	40
Extended Aeration Single-Stage Nitrification	1,000	35
Multi-Stage Nitrification	800	35
Activated Sludge with Chemical addition to Mixed Liquor for Phosphorus Removal	900	35

[1] Based on influent flow only.
[2] Calculate the peak solids loading rate based on the design maximum day flow rate plus the design maximum return sludge rate requirement and the design mixed liquor suspended solids under aeration.
[3] Applicable to wastewater treatment facilities with a design average flow of less than one hundred thousand gallons per day (100,000 gpd).
[4] To determine the peaking factor use 10 CSR 20-8.110(3) Equation 110-1.
[5] Wastewater treatment facilities needing to meet twenty milligrams per liter (20 mg/L) suspended solids or less should reduce the surface overflow rate to one thousand gallons per day per square foot (1,000 gpd/ft^2).

(4) Sludge Removal.

(A) Settling floor. The minimum slope of the settling floor shall be one vertical to twelve horizontal (1:12) for conventional settling tanks and one vertical to one hundred ninety-two horizontal (1:192) for suction style settling tanks.

(B) Sludge hopper. The minimum slope of the sludge hopper side walls shall be one and seven tenths vertical to one horizontal (1.7:1) (i.e., sixty degrees (60°) above the horizontal).

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.170 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1705–1710). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley, and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that paragraph (4)(A)2. and section (6) incorrectly reference subsection 10 CSR 20-8.140(6)(C) with regard to alarm systems.
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (4)(A)2. and section (6) have been revised to reference 10 CSR 20-8.140(7)(C) for alarm system requirements.

COMMENT #2: Mr. Jay Hoskins with MSD commented that paragraph (4)(C)4. incorrectly references 10 CSR 20-8.140(7)(J) with regard to ventilation requirements.
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (4)(C)4. has been revised to reference 10 CSR 20-8.140(8)(J) for ventilation requirements.

COMMENT #3: Mr. Jay Hoskins with MSD commented that subsection (4)(D) incorrectly references 10 CSR 20-8.140(6)(D) with regard to indirect water supply connections.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(D) has been revised to reference 10 CSR 20-8.140(7)(D) for indirect water supply connection requirements.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refer to "lagoons and wastewater irrigation alternatives."
RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.170(1) has also been revised.

COMMENT #5: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in paragraphs (4)(A)2., (4)(C)2., (4)(C)3. and sections (6) and (8).

COMMENT #6: Mr. Robert Brundage with Newman, Comley, and

Ruth commented that on 10 CSR 20-8.300 the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.170 Solids Handling and Disposal

(1) Applicability. Wastewater systems that utilize solids handling and disposal shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(4) Anaerobic Solids Digestion.

(A) General.

1. Safety. Gas detectors shall be provided for emergency use.

2. Alarm systems shall be provided in accordance with 10 CSR 20-8.140(7)(C) to warn of:

A. Any drop of the liquid level below minimum operating elevation; and

B. Low pressure in the space above the liquid level.

(C) Gas Collection, Piping and Appurtenances.

1. Safety equipment. Where gas is produced, all necessary safety facilities shall:

A. Provide pressure and vacuum relief valves and flame traps, together with automatic safety shutoff valves and protect from freezing;

B. Not install water seal equipment; and

C. House gas safety equipment and gas compressors in a separate room with an exterior entrance.

2. Piping galleries shall be ventilated in accordance with paragraph (4)(C)4. of this rule.

3. Electrical fixtures, equipment, and controls. Electrical fixtures, equipment, and controls shall comply with the National Electrical Manufacturers Association (NEMA) 4X enclosure rating where necessary; NEMA Standard 250-2014, published December 15, 2014. This standard shall be incorporated by reference into this rule, as published by National Electrical Manufacturers Association, 1300 North 17th Street, Arlington, VA 22209. This rule does not incorporate any subsequent amendments or additions. Electrical equipment, fixtures, and controls, in places enclosing and adjacent to anaerobic digestive appurtenances where hazardous gases are included.

4. Ventilation. Any underground enclosures connecting with digestion tanks or containing solids or gas piping or equipment shall be provided with forced ventilation in accordance with 10 CSR 20-8.140(8)(J).

(D) Water Supply. Water supplies using indirect connections shall comply with 10 CSR 20-8.140(7)(D).

(6) For solids pumping systems, audio-visual alarms shall be provided in accordance with 10 CSR 20-8.140(7)(C) for:

(8) Sludge and Biosolids Storage Lagoons. The sludge lagoon bottoms and embankments shall be sealed in accordance with 10 CSR 20-8.200(4)(C) to prevent leaching into adjacent soils or groundwater.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under section 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.180 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1710–1716). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth. The department received one (1) comment letter from one (1) individual during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that subsection (3)(A) on recirculating media filter location is in conflict with the minimum separation distances at 10 CSR 20-8.140(2)(C)2. Table 140-1. Mr. Hoskins suggested making all discussion and references to minimum separation distances consistent with Table 140-1.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (3)(A) has been revised to reference 10 CSR 20-8.140(2)(C)(2) for minimum separation distances.

COMMENT #2: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refers to "lagoons and wastewater irrigation alternatives."

RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.180(1) has also been revised.

COMMENT #3: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

2. Not exceed three and half gallons per day per square foot (3.5 gpd/sqft) for sand or rock filters.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.180 Biological Treatment

(1) Applicability. Wastewater systems that utilize biological treatment shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.
(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.
(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Recirculating Media Filters.
(A) Location. Recirculating media filters shall be located in accordance with the minimum separation distances at 10 CSR 20-8.140(2)(C)(2).
(D) Loading. Hydraulic loading rate shall—
1. Follow the manufacturer's recommendation for synthetic media filters; and
2. Not exceed three and one-half gallons per day per square foot (3.5 gpd/sqft) for sand or rock filters.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.190 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1716–1719). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) recommended adding a brief list of examples of chlorine disinfection chemicals at the beginning of section (3).
RESPONSE: Placing a list of commonly used chemicals for chlorine disinfection may limit applicants from exploring other options as no deviations would be allowed from a list included in this rule. A list of commonly used chemicals will be included in a Design Guide document, which will be finalized in late 2018. No change to the rule has been made as a result of this comment.

COMMENT #2: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) recommended adding a brief list of examples of dechlorination chemicals at the beginning of section (4).
RESPONSE: Placing a list of commonly used chemicals for dechlorination may limit applicants from exploring other options as no deviations would be allowed from a list included in this rule. A list of commonly used chemicals will be included in a Design Guide document, which will be finalized in late 2018. No change to the rule has been made as a result of this comment.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refer to "lagoons and wastewater irrigation alternatives."
RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as result of this comment, 10 CSR 20-8.190(1) has also been revised.

COMMENT #4: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.190 Disinfection

(1) Applicability. Wastewater systems that utilize disinfection shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.
(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.
(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State

of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1719–1726). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement in section (1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement which refers to "lagoons and wastewater irrigation alternatives."
RESPONSE AND EXPLANATION OF CHANGE: Section (1) has been revised to be consistent with language from the heading and purpose statement. Additionally, 10 CSR 20-8.110(1), 10 CSR 20-8.120(1), 10 CSR 20-8.125(1), 10 CSR 20-8.130(1), 10 CSR 20-8.150(1), 10 CSR 20-8.160(1), 10 CSR 20-8.170(1), 10 CSR 20-8.180(1), 10 CSR 20-8.190(1), 10 CSR 20-8.210(1) have been similarly revised for consistency as described in their respective Orders of Rulemaking.

COMMENT #2: Ms. Sherri Stoner with Missouri Geological Survey (MGS) commented that there are discrepancies regarding when a geohydrologic evaluation is needed and requested that we revise the rules to be consistent. Ms. Stoner noted discrepancies at 10 CSR 20-8.110(5)(E)6.G., 10 CSR 20-8.200(2)(B), and 10 CSR 20-8.300(5)(A).
RESPONSE AND EXPLANATION OF CHANGE: Subsection (2)(B) and paragraph (2)(B)1. of this rule and 10 CSR 20-8.110(5)(E)6.G. have been revised to provide clarity.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #4: Department staff commented that (4)(D)2. references 10 CSR 20-8.120(6), for manholes which does not exist and should be section (4) of 10 CSR 20-8.120.
RESPONSE AND EXPLANATION OF CHANGE: The rule was updated to include the appropriate references for manholes.

COMMENT #5: Department staff commented that disinfection for public access areas should reference the disinfection design standards, 10 CSR 20-8.190 rather than the lagoon basis of design, section (3).
RESPONSE AND EXPLANATION OF CHANGE: The reference to disinfection for public access areas was updated to reference 10 CSR 20-8.190.

COMMENT #6: Department staff commented that the title to section (7) says subsurface adsorption and it should be subsurface absorption.
RESPONSE AND EXPLANATION OF CHANGE: The title to section (7) was corrected.

COMMENT #7: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%)
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:
The word 'shall' was added to subsection (6)(F) and paragraph (8)(A)2. The department also made a change to subsection (6)(E) for clarification.

10 CSR 20-8.200 Wastewater Treatment Lagoons and Wastewater Irrigation Alternatives

(1) Applicability. Wastewater systems that utilize lagoons and wastewater irrigation alternatives shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.
(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.
(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(2) Supplementary Field Data for the Facility Plan. The facility plan shall contain pertinent information on location, geology, soil conditions, area for expansion, and any other factors that will affect the feasibility and acceptability of the proposed project, including the information required per 10 CSR 20-8.110. The following information must be submitted:
(B) Geohydrological Evaluation. A geohydrological evaluation shall be requested on all new earthen basins, earthen basin major modifications, new wastewater irrigation sites, and subsurface absorption fields.
1. Severe Collapse Potential. Earthen basins shall not be located in areas with a severe collapse potential rating.

(4) Lagoon Construction Details.
(D) Influent Lines.
1. Unlined corrugated metal pipe shall not be used due to corrosion problems.
2. A manhole shall be installed with its invert at least six inches (6") above the maximum operating level of the lagoon, prior to the entrance into the primary cell, and provide sufficient hydraulic head without surcharging the manhole. For manhole installation, follow the provisions listed in 10 CSR 8.120(4).
3. The influent line(s) shall be located along the bottom of the lagoon so that the top of the pipe is just below the average elevation of the lagoon seal; however, there shall be an adequate seal below the pipe.

(6) Surface Irrigation of Wastewater.
(E) The applicant shall defer the grazing of animals or harvesting of forage crops, as listed below, following wastewater irrigation, depending upon ambient air temperature and sunlight conditions.
1. Fourteen (14) days from grazing or forage harvesting during the period from May 1 to October 31 of each year; and
2. Thirty (30) days from grazing or forage harvesting during the period from November 1 to April 30 of each year.
(F) Public Access Areas. Wastewater shall be disinfected prior to irrigation (not storage) in accordance with 10 CSR 20-8.190.
1. The wastewater shall contain as few of the indicator organisms as possible and in no case contain more than one hundred twenty-six (126) Escherichia coliform colony forming units per one hundred milliliters (126 cfu/ 100 ml);
2. The public shall not be allowed into an area when irrigation is being conducted; and
3. For golf courses utilizing wastewater, all piping and sprinklers associated with the distribution or transmission of wastewater shall be color-coded and labeled or tagged to warn against the consumptive use of contents.

(7) Subsurface Absorption Systems.

(8) Low Pressure Pipe (LPP) Subsurface Systems.
(A) Design.
1. The LPP system shall be sized in accordance with the following equations, Equation 200-2 and Equation 200-3:
Equation 200-2

$$A = \frac{Q}{LTAR}$$

and
Equation 200-3

$$L = \frac{A}{5 \text{ ft}}$$

where:
A = Minimum LPP soil treatment area (square feet (sq.ft))
L = Minimum total length of LPP trench (ft)
Q = Maximum daily wastewater flow (gallons per day (gpd))
LTAR = Long term acceptance rate (gpd/sq.ft). This is the lowest reported LPP soil loading rate between the soil surface and at least twelve inches (12") below the specified LPP trench bottom, or as approved by the Missouri Department of Natural Resources (department).
2. All network piping and low pressure distribution piping and fittings with polyvinyl chloride (PVC) shall meet ASTM Standard D 1785 *Standard Specification for Poly(Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, or 120* as approved and published August 1, 2015, or equivalent rated to meet or exceed ASTM D2466 *Standard Specification for Poly(Vinyl Chloride) (PVC) Plastic Drain, Waste, and Vent Pipe and Fittings* as approved and published August 1, 2017. These standards shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.
3. Manifold design shall address freeze protection while assuring uniform distribution and to minimize drain down of laterals into other laterals at a lower elevation between dosing events.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.210 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1726–1730). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth. The department did not receive any comment letters during the public comment period.

COMMENT #1: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refers to "lagoons and wastewater irrigation alternatives."
RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.210(1) has also been revised.

COMMENT #2: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.
RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #4: Department staff noted a change needed to be made to correct the units in paragraph (3)(A)1. Staff also noted a wording correction needed to be made in paragraph (3)(C)2.
RESPONSE AND EXPLANATION OF CHANGE: The units in paragraph (3)(A)1. were corrected as well as wording in paragraph (3)(C)2.

10 CSR 20-8.210 Supplemental Treatment

(1) Applicability. Wastewater systems that utilize supplemental treatment shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard

textbooks, current technical literature and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Filtration.

(A) Filtration systems shall be preceded with additional process, such as chemical coagulation and sedimentation or other acceptable process, when:

1. Permit requirements for total suspended solids (TSS) are less than ten milligrams per liter (10 mg/L);
2. Effluent quality is expected to fluctuate significantly;
3. Significant amounts of algae are present; or
4. The manufacturer recommends an additional process.

(C) Deep bed filters.

1. The design of manifold type filtrate collection or underdrain systems shall:

A. Minimize loss of head in the manifold and baffles;

B. Provide the ratio of the area of the underdrain orifices to the entire surface area of the filter media at about three one-thousandths (0.003);

C. Provide the total cross-sectional area of the laterals at about twice the area of the final openings; and

D. Provide a manifold that has a minimum cross sectional area that is one and one half (1.5) times the total area of the laterals.

2. All rotary surface wash devices shall provide adequate surface wash water to provide one half to one gallon per minute per square foot (0.5-1.0 gpm/ sq ft) of filter area.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 20-8.220 Land Treatment **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1730–1731). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed rescission. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department did not receive any comment letters during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. This rule is being rescinded so no changes were made as a result of this review.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1731–1737). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received two (2) comment letters during the public comment period.

COMMENT #1: Ms. Sherri Stoner with Missouri Geological Survey (MGS) commented that there are discrepancies in when a geohydrologic evaluation is needed and requested that we revise the rules to be consistent. Ms. Stoner noted discrepancies at 10 CSR 20-8.110(5)(E)6.G., 10 CSR 20-8.200(2)(B), and 10 CSR 20-8.300(5)(A).
RESPONSE: 10 CSR 20-8.110(5)(E)6.G. and 10 CSR 20-8.200(2)(B) have been revised to provide clarity. No discrepancies were found in 10 CSR 20-8.300.

COMMENT #2: Mr. Robert Brundage with Newman, Comley, and Ruth commented that the title of the regulation references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion. He recommended an alternate title of "Design of Concentrated Animal Feeding Operations" to be consistent with the applicability section.
RESPONSE AND EXPLANATION OF CHANGE: The title of this rule has been changed as suggested. With the change in title, the language in the purpose statement, the applicability section, and subsections (5)(M) and (9)(B) were also updated to remove the reference to animal waste management systems.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth recommended that subsection (1)(E) should be retained to allow for situations where deviations would be appropriate.
RESPONSE: The amended rules are intended to provide an accepted and uniform minimum set of standards. Deviations will not be allowed because the proposed rules only mandate minimum design standards. No changes were made as a result of this comment.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and

Ruth commented that proposed language in subsection (4)(A) states that manure storage structures shall be designed as no discharge; however some Confined Animal Feeding Operations (CAFOs) are allowed to discharge under limited circumstances described in the effluent limitation guidelines which are incorporated by reference at 10 CSR 20-6.300. Mr. Brundage stated that this should be reflected in the rule.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(A) has been revised to reference 10 CSR 20-6.300(4).

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth suggested that the removed language at paragraph (8)(A)8. with regard to separation from potable water lines be reinstated to provide clarity.
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (8)(A)8. has been revised to provide more clarity.

COMMENT #6: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: Language was changed in Section (4)(C).

COMMENT #7: Department staff have noted the following for correction: Grammatical errors in subparagraphs (4)(D)2.A. and 2.B. as well as section (5)(D) needed correction. Subsections (5)(I) and (6)(F) contain periods that are out of place.
RESPONSE AND EXPLANATION OF CHANGE: Subparagraphs (4)(D)2.A. and 2.B. as well as subsections (5)(I) and (6)(F) have been revised.

10 CSR 20-8.300 Design of Concentrated Animal Feeding Operations

(1) Applicability. This rule applies to all new or expanding Concentrated Animal Feeding Operations (CAFOs), however, only those applicants that are constructing earthen basins are required to obtain construction permits. The Missouri Department of Natural Resources (department) will not examine the adequacy or efficiency of the structural, mechanical, or electrical components of the concentrated animal feeding operation systems, only adherence to rules and regulations.

(4) Manure Storage Structure Sizing.
(A) No Discharge Requirement. All manure storage structures shall comply with the design standards and effluent limitations of 10 CSR 20-6.300(4).
(C) New Class I swine, veal, or poultry operations shall evaluate proposed uncovered manure storage structures in accordance with applicable federal regulation as set forth in 40 CFR 412.46(a)(1), November 20, 2008, and shall hereby be incorporated by reference, without any later amendments or additions, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954.
(D) Sizing Manure Storage Structures.
1. The structure shall be designed to hold all inputs, between the upper and lower operating levels, anticipated during the design storage period.
2. Uncovered liquid storage structures shall also include:
A. One in ten (1-in-10) year rainfall minus evaporation from the surface of the structure, held between the operating levels; and
B. Safety volume based on the twenty-five (25) year, twenty-four (24) hour storm event above the upper operating level.
3. Tanks and pits shall also include six inches (6") of depth below the lower operating level for incomplete removal allowance.
4. Earthen basins shall also include:
A. At least one foot (1') of freeboard or two feet (2') for structures that receive storm water from open lots larger than the surface area of the storage structure;
B.Two feet (2') of permanent liquid depth below the lower operating level. Anaerobic treatment volume greater than two feet (2') will satisfy this requirement;
C. Sludge accumulation volume; and
D. Treatment volume below the lower operating level for anaerobic treatment lagoons.

(5) Construction of Earthen basins.
(D) Outer berm slopes shall not be steeper than three to one (3:1), horizontal to vertical and inner slopes not be flatter than four to one (4:1) or steeper than three to one (3:1) for uncovered lagoons or two and one-half to one (2.5:1) for covered lagoons.
(I) If alternative liners are used, permeability, durability, and integrity of the proposed materials must be satisfactorily demonstrated for anticipated conditions.
(M) Operation and Maintenance. An operation and maintenance plan is required addressing the major components of the concentrated animal feeding operation system.

(6) Construction of Tanks and Pits. Construction of tanks and pits shall meet the following requirements:
(F) Design concrete and steel features according to published guidelines; and

(8) Design and Construction of Pipelines, Pump Stations, and Land Application Systems.
(A) General. Design of pipelines shall be based on the following requirements:
1. Ensure the storage/treatment facilities can be emptied within the time limits stated in the nutrient management plan;
2. Convey the required flow without plugging, based on the type of material and total solids content;
3. Install at a depth sufficient to protect against freezing;
4. Install with appropriate connection devices to prevent contamination of private or public water supply distribution systems and groundwater;
5. Size pumps to transfer material at the required system head and volume;
6. Install a minimum of three feet (3') below the natural stream floor and as nearly perpendicular to the stream flow as possible;
7. Encase when buried under public roads; and
8. Separation from potable water lines. Pipelines shall be located at least ten feet (10') horizontally from and at least eighteen inches (18") below the base of any potable water line.
9. Aerial pipeline crossings of streams shall:
A. Provide support for all joints in pipes utilized in the crossing;
B. Protect from the impact of flood waters and debris; and
C. Be constructed so that they will remain watertight and free from changes in alignment or grade.

(9) General System Details.
(B) Potable Water Supply Protection. No piping or other connections shall exist in any part of the concentrated animal feeding

operation system, which under any conditions, might cause the contamination of a potable water supply.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.500 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1738–1742). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received two (2) comment letters during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in subsections (5)(A) and (8)(C).

COMMENT #2: Mr. Stanley J. Thessen with MFA, Incorporated requested that subsection (3)(B) be retained. This subsection included an exemption for liquid fertilizer storage tanks greater than forty thousand (40,000) gallons that were in use prior to January 13, 1992 from the requirement of installing a liner underneath the tank.
RESPONSE AND EXPLANATION OF CHANGE: The language that was previously in subsection (3)(B) has been reinstated at subsection (2)(C).

COMMENT #3: Mr. Stanley J. Thessen with MFA, Incorporated, commented that the term "auxiliary" in subsection (5)(I) should be replaced with "non-mobile" to be consistent with other terminology in this rule.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(I) has been revised to remove the term "auxiliary."

COMMENT #4: Mr. Stanley J. Thessen with MFA, Incorporated, commented that subsection (6)(C) with regard to operational containment areas to hold pesticides and impregnation equipment should be eliminated as it is covered elsewhere in the rule in regard to operational containment.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (6)(C) refers to design and has been revised to include a reference to the operational section of the rule.

COMMENT #5: Mr. Stanley J. Thessen with MFA, Incorporated, commented that the new requirement at subsection (8)(B) with regard to containment of spilled product and collected precipitation is economically and logistically impossible to meet. Mr. Thessen stated that it was agreed at a stakeholder meeting that "Contain any spilled product" would be retained and the rest of subsection (8)(B) would be eliminated. Mr. Robert Brundage with Newman, Comley, and Ruth also recommended that "any collected precipitation" be deleted from subsection (8)(B). Mr. Brundage noted that the act of spilling product is not a discharge to waters of the State, nor will the operational containment be designed to collect precipitation.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (8)(B) has been revised to provide clarification that any collected and contaminated material must be disposed of properly.

COMMENT #6: Mr. Stanley J. Thessen with MFA, Incorporated, and Mr. Robert Brundage with Newman, Comley, and Ruth commented that the requirements in subsection (8)(C) with regard to minimum volume of operational containment for bulk pesticides and bulk liquid fertilizer for new construction are much more stringent than, and contradict, the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), and implementing regulations.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (8)(C) has been revised to reference FIFRA and correct the contradiction.

COMMENT #7: Mr. Stanley J. Thessen with MFA, Incorporated, and Mr. Robert Brundage with Newman, Comley, and Ruth, commented that the punctuation changes in subsection (9)(B) with regard to design for containment of spillage have totally changed the meaning and vastly increased the scope and associated regulatory burden. Mr. Brundage stated that the regulation currently gives the facility the option to provide either operational containment to clean up spillage or the option to capture and contain precipitation that comes in contact with the operational containment area, but that the new language would require both. Mr. Thessen stated that the changes now require spills from spreading equipment to be captured and stormwater to be collected and disposed, and this places a burden on the regulated community that is not sustainable.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (9)(B) has been revised to clarify that only precipitation that comes in contact with spillage must be contained in this context.

COMMENT #8: Mr. Stanley J. Thessen with MFA, Incorporated, commented that subsection (9)(C) used to require a catchment basin or portable pan/container when there was a potential for a discharge, but that the revised language requires this regardless of the potential for a discharge.
RESPONSE AND EXPLANATION OF CHANGE: The original language has been reinstated in subsections (9)(C) and (9)(D) with a small change to provide additional clarification.

COMMENT #9: Mr. Stanley J. Thessen with MFA, Incorporated, disagreed with the assessment that the proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate. Mr. Thessen stated that the requirement to construct operational containment areas capable of capturing and retaining stormwater, along with the cost of analysis and proper disposal will place a burden on the regulated community that cannot be sustained.
RESPONSE AND EXPLANATION OF CHANGE: Revisions have been made to the rule in response to comments received during the public notice period and summarized in this Order of Rulemaking

under comments #5, #7, and #8. Those revisions address and clarify the requirements of concern noted in this comment. With those revisions, cost will remain under five hundred dollars ($500).

COMMENT #10: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on section (1) that the language states this rule applies to all new agrichemical facilities. Mr. Brundage asked for clarification that this means the regulation does not apply to agrichemical facilities that existed prior to the adoption of this revised regulation.
RESPONSE: The word "new" has been removed from section (1) to provide clarity. This regulation is applicable to all agrichemical facilities. Existing systems are held to the standards that were in place at the time of construction. No changes were made as a result of this comment.

COMMENT #11: Mr. Robert Brundage with Newman, Comley, and Ruth, recommended that section (4) be retained to allow for situations where deviations would be appropriate.
RESPONSE: The amended rules are intended to provide an accepted and uniform minimum set of standards. Deviations will not be allowed because the proposed rules only mandate minimum design standards. No changes were made as a result of this comment.

COMMENT #12: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on subsection (5)(A) that EPA's FIFRA regulation 40 CFR Part 165.85(c)(1) and (2) are incorporated by reference. Mr. Brundage recommends that this subsection also incorporate subsections (3) and (4) of 40 CFR Part 165.85(c). Sections (3) and (4) of 40 CFR Part 165.85(c) provide the containment and the operational containment volume requirements that are discussed in subsection (8)(C) of this rule.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(A) has been revised to reference all of 40 CFR Part 165.85.

COMMENT #13: Mr. Robert Brundage with Newman, Comley, and Ruth, requested that subsection (6)(B) be deleted because sizing of the dry operational containment area is referenced in another subsection.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (6)(B) refers to design and has been revised to include a reference to the operational section of the rule.

COMMENT #14: The following administrative changes have been noted for correction: A numerical reference should be spelled out in subsection (5)(E). A space is needed between "liner and with" in paragraph (5)(J)1. and the numbering of sections should be corrected.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(E), paragraph (5)(J)1., and section numbering has been revised.

10 CSR 20-8.500 Design Requirements for Agrichemical Facilities

(1) Applicability. This rule applies to all agrichemical facilities and to the construction of new secondary and operational containment of agrichemicals at existing facilities. All facilities to which this rule applies shall be designed as no-discharge systems.

(2) Exceptions.

(C) Liquid fertilizer storage tanks that were in use prior to January 13, 1992, having a storage capacity greater than forty thousand (40,000) gallons are exempt from the requirement of installing a liner underneath the tank itself. Spill containment diking is required around these tanks.

(5) Secondary Containment for Bulk Liquid Agrichemicals for new construction. Secondary containment for nonmobile bulk liquid pesticides and nonmobile bulk liquid fertilizers shall be designed to contain any spilled product to prevent a discharge with—

(A) Containment structures sized according to the Environmental Protection Agency's Code of Federal Regulations, 40 CFR 165.85, published July 1, 2014. This document shall hereby be incorporated by reference without any later amendments or modifications. To obtain a copy, contact the U.S. Government Printing Office at 732 North Capitol Street NW, Washington, DC, 20401, toll free at (866) 512-1800 or by visiting https://bookstore.gpo.gov;

(E) A collection sump, if needed, shall not be more than two feet (2') deep or larger than twenty (20) cubic feet; constructed of materials that resist penetration by moisture and agrichemicals; with a sealed connection point between the containment area floor; and at a low point in the containment area to allow for removal of accumulated liquids;

(I) All tanks for storage of rinsate or precipitation collected in the secondary or operational containment area located within a secondary containment structure.

(J) Earthen structures used for secondary containment shall be designed as follows:

1. Be constructed with a compacted soil liner or synthetic liner with a permeability rate of 1×10^{-7} cm/sec. or less.

2. Be protected against erosion with side slopes no steeper than three to one (3:1) and with a top width no less than two and one-half feet (2 1/2').

(6) Nonmobile bulk dry fertilizer storage shall be designed to—

(B) Allow for all unloading, loading, mixing, and handling of dry bulk fertilizers to be done on an operational containment area as required in section (9) of this rule;

(C) Have an adequately sized operational containment area to hold the volume of pesticides used and impregnation equipment as required in section (9) of this rule;

(8) Operational containment for bulk liquid pesticides and bulk liquid fertilizers for new construction shall be designed to:

(B) Contain any spilled product and any collected precipitation that comes in contact with spillage for the amount of time needed for proper cleanup and recovery;

(C) Have a minimum volume in accordance with the Environmental Protection Agency's *Code of Federal Regulations*, 40 CFR 165.85, published July 1, 2014. This document shall hereby be incorporated by reference without any later amendments or modifications. To obtain a copy, contact the U.S. Government Printing Office at 732 North Capitol Street NW, Washington, DC, 20401, toll free at (866)512-1800 or by visiting https://bookstore.gpo.gov;

(9) Operational Containment Area for bulk dry pesticides and bulk dry fertilizers for new construction shall be sized to—

(B) Contain any spillage of dry materials that occurs from loading, unloading, or hauling; from spreading equipment; and from mixing and blending equipment. Operational containment areas must also contain precipitation that comes in contact with spillage for the amount of time needed for proper cleanup and recovery;

(C) Individual catchment basins or portable pans/containers may be used to satisfy the requirement for operational containment. The individual basins or portable containers shall be placed to catch or recover spillage and leakage from transfer connections and conveyors; and

(D) For unloading dry pesticides and dry fertilizers from rail cars, a catchment basin or concrete pad that can effectively contain the dry fertilizer or pesticide shall be used.

(10) Operation and Management of Agrichemical Facilities. Field application of rinsate and collected precipitation is acceptable and recommended.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 9—Treatment Plant Operations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-9.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* July 16, 2018 (43 MoReg 1742–1743). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. The department received three (3) comments during the public comment period. One (1) error was identified by department staff.

COMMENT #1: Mr. John Reece, Clean Water Commissioner and Hearing Officer, asked questions during the public hearing related to the operational monitoring differences between aerobic and anaerobic digesters found under 10 CSR 20-9.010(5). He commented that additional clarification is needed, and that temperature is not usually measured in aerobic digesters.
RESPONSE: The department agrees. The proposed amendments do not require operational monitoring of temperature for aerated digesters in 10 CSR 20-9.010. The dash (-) in the "temperature" row under the "Aerobic" heading indicates that temperature monitoring is not required for aerobic digesters. The proposed amendment includes temperature monitoring for all anaerobic sludge digesters and removes the phrase "if heated." No changes to the rule have been made as a result of this comment.

COMMENT #2: C. Wulff commented that the department should not change 10 CSR 20-9.010. The comment was that stronger regulation of CAFOs is needed for the protection of groundwater.
RESPONSE: 10 CSR 20-9.010 does not apply to concentrated animal feeding operations, or CAFOs. No changes to the rule have been made as a result of this comment.

COMMENT #3: Robert Brundage, Newman, Comley, and Ruth, made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and rewriting a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: The word "shall" will be restored in section (4).

COMMENT #4: Department staff identified a typographical error in section (2). The term "Missouri State Operating Permit" should appear before the acronym (MSOP).
RESPONSE AND EXPLANATION OF CHANGE: The department is correcting this error.

10 CSR 20-9.010 Wastewater Treatment Systems Operation Scope Monitoring

(2) Operational laboratory tests and related monitoring for wastewater treatment systems control are a supplement to the Missouri State Operating Permit (MSOP) requirements. These operational monitoring reports shall be submitted to the department along with the MSOP discharge monitoring reports.

(4) These requirements for laboratory tests shall apply to all wastewater treatment systems owned or operated by or for municipalities, public sewer districts, or other local government entities, private sewer companies regulated by the Public Service Commission, and the state agencies or any subdivision of them, with a population equivalent, as defined in 10 CSR 20-9.020, greater than two hundred (200). All other systems are exempt.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 9—Treatment Plant Operations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-9.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* July 16, 2018 (43 MoReg 1743–1746). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. The department received two (2) comments during the public comment period.

COMMENT #1: Mr. John Reece, Clean Water Commission and Hearing Officer, asked questions during the public hearing related to uncertified staff working at wastewater treatment facilities. He stated the subject was touchy and needed more explanation. He also commented that he didn't think a lot of small communities would report when they've had a change in staff.
RESPONSE: The department is proposing to include language in 10 CSR 20-9.020(2)(C) that recognizes the need for systems to hire new employees that are not yet certified and allow for some flexibility for them to be at the wastewater plant as they work toward certification. This flexibility was requested from stakeholders during the January 2018 stakeholder meeting. The proposed language states that new employees that are not yet certified wastewater treatment operators cannot make process control decisions and will be directly supervised by a certified operator or chief operator. This allows uncertified employees to perform duties as assigned by, and under the supervision of, the certified operator or chief operator, while still protecting water quality.

Additionally, the department is proposing to add language in 10 CSR 20-9.020(2)(F) that addresses situations when a chief operator

is no longer available to serve as the operator. The amendment requires the system to notify the department of the vacancy within fifteen (15) calendar days and appoint an interim operator. The department, following consultation with the wastewater system owner, will establish a schedule of activities and a timeline for the system to have a certified chief operator who has met all applicable certification requirements. No changes to the rule have been made as a result of this comment.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: the word "shall" will be restored in the amended rule at (1) Definitions.

10 CSR 20-9.020 Classification of Wastewater Treatment Systems

(1) Definitions. Definitions as set forth in the Missouri Clean Water Law and 10 CSR 20-2.010 shall apply to those terms when used in this rule, unless the context clearly requires otherwise or as noted in the subsections of this rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 9—Treatment Plant Operations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-9.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* July 16, 2018 (43 MoReg 1746–1749). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. One (1) comment during the public comment period. Two (2) errors were identified by the department.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Department staff identified a typographical error in subsection (3)(B).
RESPONSE AND EXPLANATION OF CHANGE: The department is correcting this error.

COMMENT #3: Department staff identified a typographical error in subsection (4)(A).
RESPONSE AND EXPLANATION OF CHANGE: The department is correcting this error.

10 CSR 20-9.030 Certification of Wastewater Operators

(3) Certification of Competency.
(B) Certifications at the appropriate level shall be issued to individuals successfully passing the certification examination and fulfilling experience requirements of subsection (3)(I) of this rule. The expiration date of the certifications shall coincide with renewal requirements as provided in subsection (4)(B) of this rule. An examination score of seventy percent (70%) correct shall be considered a passing grade.
(4) Certificate Renewal.
(A) All certificates issued by the department shall be renewed at least every three (3) years, unless prorated by the department to some other time frame. All applicants for renewal shall meet the training requirements set forth in subsection (4)(B) prior to the expiration date stated on each individual's certificate.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 14—Concentrated Animal Feeding Operation Waste Management System Operations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-14.010 Classification of Concentrated Animal Feeding Operation Waste Management Systems **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1749). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. The department received twelve (12) comments during the public comment period.

COMMENT #1: Ms. Jeanne Heuser provided comments at the public hearing on August 15, 2018, as well as in writing on August 23, 2018. She asked questions during the public hearing about the timing of when operator certifications are issued to individuals. Her written comment states the importance of proper certification of CAFO operators and that there should be no lessening of the certification requirements.
RESPONSE: The department appreciates Ms. Heuser's comments and agrees that properly certified operators play a critical role in the protection of public health and the environment. The department would like to clarify that the proposed amendments to 10 CSR 20-14.010 do not modify which systems the rule applies to, and does not propose to change current requirements for those systems to be operated by certified personnel. No changes to the rule have been made as a result of this comment.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENTS #3–#11: Comments from the following individuals were similar in nature and combined: Arlene Sandler, Maisah Khan with the Missouri Coalition for the Environment (MCE), Dana Gray, Barry Leibman, Joyce Wright, Kathleen Dolson, Francine Glass, Stacy Cheavens, and Lauri Lakebrink. A summary of their comments is that the current rule, 10 CSR 20-14.010, should not be changed. Confined Animal Feeding Operations (CAFOs) should be held to the strictest environmental requirements due to their potential to pollute groundwater, cause air pollution, and contribute to nitrates in drinking water. The proposed changes reduce the minimum standards required to become a CAFO Waste Management System Operator and make it easier to become an operator. No changes should be made.
RESPONSE: The department would like to clarify that the proposed amendment does not change the number or types of systems required to have certified operators, but it does remove language related to wet and dry certificates. The proposed amendment does not affect permit conditions that class IA CAFO systems are required to meet through Missouri State Operating Permits. The proposed rule changes continue to provide protection of public health and the environment, maintain Missouri's operator certification program for CAFOs, which is one of the nation's most prescriptive programs, while still allowing for some reduction in burden. The department appreciates the comments submitted. No changes were made as a result of this comment.

COMMENT #12: Margaret O'Gorman, Franciscan Sisters of Mary, commented that making it easier to establish CAFOs, and limiting restriction on their waste management is detrimental to the health of those who live nearby, endangers or threatens the water supply, fish and other aquatic life.
RESPONSE: 10 CSR 20-14.010 does not provide for the construction or operation of CAFOs. This comment is more appropriately related to 10 CSR 20-6.300 and 10 CSR 20-8.300. No changes to the rule have been made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 14—Concentrated Animal Feeding Operation Waste Management System Operations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-14.020 Certification of Concentrated Animal Feeding Operation Waste Management System Operators **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1749–1751). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. The department received eight (8) comments during the public comment period.

COMMENT #1: Ms. Jeanne Heuser provided comments at the public hearing on August 15, 2018, as well as in writing on August 23, 2018. She asked questions during the public hearing about the timing of when operator certifications are issued to individuals. Her written comment states the importance of proper certification of CAFO operators and that there should be no lessening of the certification requirements.
RESPONSE: The department appreciates Ms. Heuser's comments and agrees that properly certified operators play a critical role in the protection of public health and the environment. The proposed amendment changes do provide some reduction in burden and streamlines the certification process for individuals seeking CAFO operator certification. The rule continues to provide protection of public health and the environment, maintains Missouri's operator certification program for CAFO operators, which is one of the nation's most prescriptive programs, while still allowing for some reduction in burden. No changes were made as a result of this comment.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.
RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENTS #3–#8: Comments from the following individuals were similar in nature and combined: Caroline Pufalt from the Sierra Club MO Chapter, Maisah Khan with the Missouri Coalition for the Environment (MCE), Dana Gray, Barry Leibman, Joyce Wright, and Kathleen Dolson. A summary of their comments is that the proposed changes in this rule reduce the minimum standards required to become a Confined Animal Feeding Operation (CAFO) Waste Management System Operator and make it easier to become an operator. Don't change 10 CSR 20-14.
RESPONSE: The department appreciates the comments. The department would like to clarify that the proposed amendment does not change the number or types of systems required to have certified operators. Class IA CAFO systems continue to be required to meet conditions in Missouri State Operating Permits. The proposed amendment changes continue to provide protection of public health and the environment, maintain Missouri's operator certification program for CAFOs, which is one of the nation's most prescriptive programs, while still allowing for some reduction in burden for individuals achieving certification. No changes were made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 3—Permits

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-3.010 Construction Authorization, Final Approval of Construction, Owner-Supervised Program, and Permit to Dispense Water **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1802–1803). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. The department received six (6) comments during the public comment period.

COMMENT #1: Mr. Paul Metzger, with the Mills Creek Shores Subdivision, commented that the minimum number of connections that are regulated by the department should be changed from fifteen (15) connections to fifty (50) connections.
RESPONSE: A community water system is defined by the Safe Drinking Water Regulations as a public water system which serves at least fifteen (15) connections and is operated on a year-round basis or regularly serves at least twenty-five (25) residents on a year round basis. This regulation is based on the Environmental Protection Agency's (EPA) definition of a community water system as defined in the *Code of Federal Regulations*. The state's definition cannot be less stringent than the federal definition in order for the state to continue as the regulating authority for Missouri public water systems. No change was made to the rule as a result of this comment.

COMMENT #2: Mr. Paul Metzger, with the Mills Creek Shores Subdivision, requested additional construction authorization exemptions for small systems such as theirs (twenty-four (24) connections) be added to 10 CSR 60-3.010. An example Mr. Metzger provided was replacing four (4) eighty-six (86) gallon bladder tanks, due to failures, with four (4) one hundred nineteen (119) gallon bladder tanks. He noted under the rule this project would have required a construction permit as well as preparation of an engineering report, plans, and specifications, and inspection of construction for the purpose of compliance with the drawings by a professional engineer. His comment expressed difficulty finding an engineer for these small projects and noted the cost of an engineer would have tripled the cost of the project, taken months to complete, and would have ended up with the same mechanical result. He noted this is a common occurrence for small systems. He commented that these small systems currently sit on their hands and make minimal repairs and improvements mostly due to all the departments required red tape and additional engineering tasks that are not readily available due to the extremely small size of the project. Thus, these small systems suffer in quality and poor reliability. He stated most of the Safe Drinking Water Laws are designed to address large water distribution systems, but the number of small systems with less than one hundred (100) connections is quite a large number as well. However, these small systems are not considered at all when these rules are developed and modified.
RESPONSE: Missouri state statute (section 640.115, RSMo.) requires all public water systems to file a certified copy of the plans and surveys of the water system and to obtain a written permit of approval prior to use of the system. The Missouri Safe Drinking Water Regulations implement the Missouri Safe Drinking Water Law and therefore, must require the submittal of a permit application and the submittal of plans and specifications as noted in the statute. The department understands that engineering design will add to the cost of projects, but it is necessary to comply with the state law and to ensure projects are designed safely and in a manner that will ensure compliance with the regulations.

The department added, as part of this proposed rule amendment, language to exempt public water systems from having to obtain construction authorization for what is considered routine repair and maintenance by allowing the replacement of certain system components with the same size and type of component often referred to as "like for like." The department did not include exemptions for situations where the components have an increase in size or change in type as this could affect the system's design capacity or treatment processes and would require submittal of a construction permit application, plans, specifications, and possibly an engineering report. The example given by Mr. Metzger would be exempt if the four (4) storage tanks were replaced with four (4) tanks of the same size and type, however, since there was an increase in storage tank capacity written construction authorization prior to construction must be obtained from the department. No change to the rule was made as a result of this comment.

COMMENT #3: Mr. Paul Metzger, with the Mills Creek Shores Subdivision, commented that 10 CSR 60-10.010(2) states plans and specifications are required when expansions or modifications of existing water treatment facilities would significantly change or alter plant capacity or treatment processes. He commented this appears to be a judgement call as to if and when plans, specifications, and a construction permit are required.
RESPONSE: This comment cites a rule that is not part of this rulemaking and as such falls outside the scope of this rulemaking. 10 CSR 60-3.010(1)(A) Written Construction Authorization does state that "A supplier of water which operates a community water system must obtain written authorization from the department prior to construction, alteration or extension of any community water system, unless the project will be constructed under the provisions of 10 CSR 60-10.010(2)(C)2." No change was made as a result of this comment.

COMMENT #4: Mr. Paul Metzger, with the Mills Creek Shores Subdivision, requested that small systems be capable of becoming Owner Supervised Systems in regards to their treatment systems.

RESPONSE: Owner Supervised Programs are described in 10 CSR 60-10.010(2)(C)2. which states, "A supplier of water to a community water supply that desires to conduct a supervised program for construction of water distribution systems, in lieu of submitting plans for approval, must submit to the department a written request for approval." Owner Supervised Programs are only applicable to distribution systems so treatment and source systems are required to submit and obtain written construction authorization. Since 10 CSR 60-3.010 is not the rule that covers Owner Supervised Program, this comment falls outside the scope of this rulemaking. No change has been made as a result of this comment.

COMMENT #5: Commissioner Rodger Owens of the Safe Drinking Water Commission inquired about the newly added exemption for subdivisions where each lot or tract is supplied by a private well with no interconnections to a distribution system. He inquired if a private subdivision had an interconnection with a public water system as an emergency connection would it still be considered a private system or would it be public.
RESPONSE: The department would consider any well or emergency connection from a private subdivision to a public water system to be a part of the regulated public water system and thus making it subject to the construction requirements of this rule. No change was made to the rule as a result of this comment.

COMMENT #6: Commissioner Rodger Owens of the Safe Drinking Water Commission, inquired if a private subdivision would be eligible for the same benefit as public systems, such as eligibility for loans and grants to upgrade their system for emergencies or fire protection.
RESPONSE: The purpose of the proposed rule amendment was to establish requirements related to construction authorization for public water systems. Funding for public water system construction projects is not within the scope of this rule. No change was made to the rule as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 3—Permits

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-3.020 Continuing Operating Authority **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1803–1804). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 3—Permits

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-3.030 Technical, Managerial, and Financial Capacity **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1804–1805). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.022 Revised Total Coliform Rule **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1805–1808). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.025 Ground Water Rule Monitoring and Treatment Technique Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1809–1812). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1812–1813). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received. One (1) typographical error was identified by the department.

COMMENT: Department staff identified a typographical error in a rule reference in paragraph (3)(D)1. The reference should reflect the renumbering of section (4) to (3).
RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the error.

10 CSR 60-4.050 Maximum Turbidity Levels and Monitoring Requirements and Filter Backwash Recycling

(3) Filter Backwash Recycling.
(D) Record Keeping. The system must collect and retain on file recycle flow information for review and evaluation by the department. This information shall include, but may not be limited to:
1. A copy of the recycle notification and information submitted to the department under subsection (3)(B) of this rule;
2. A list of all recycle flows and the frequency with which they are returned;
3. Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;
4. Typical filter run length and a written summary of how filter run length is determined;
5. The type of treatment provided for the recycle flow; and
6. Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.052 Source Water Monitoring and Enhanced Treatment Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1813–1816). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.055 Disinfection Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1816–1819). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1819–1820). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period

ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received. One (1) error was identified by the department.

COMMENT: Department staff identified an incorrect incorporation of a document by reference in paragraph (1)(C)2.
RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the error.

10 CSR 60-4.060 Maximum Radionuclide Contaminant Levels and Monitoring Requirements

(1) Maximum Contaminant Levels (MCL).
(C) MCL for Beta Particle and Photon Radioactivity.
1. The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water must not produce an annual dose equivalent to the total body or any internal organ greater than four (4) millirem/year (mrem/year).
2. Except for the radionuclides listed in Table A, the concentration of man-made radionuclides causing four (4) mrem total body or organ dose equivalents must be calculated on the basis of two (2) liter per day drinking water intake using the one hundred sixty-eight (168) hour data list in "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NBS (National Bureau of Standards) Handbook 69 as amended August 1963, U.S. Department of Commerce, which is incorporated by reference without any later amendments or modifications. If two (2) or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed four (4) mrem/year.

Table A.—Average Annual Concentrations Assumed to Produce a Total Body or Organ Dose of Mrem/Year

Radionuclide	Critical Organ	pCi per Liter
Tritium	Total body	20,000
Strontium-90	Bone Marrow	8

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.080 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1820–1824). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received during the public hearing. One (1) comment was received during the public comment period.

COMMENT #1: Mr. Randy Norden, Executive Director of the Missouri Rural Water Association commented that, the operational monitoring chart, would be more correct if a footnote to the chart, number three (3), had the language amended from "all public water systems that add a disinfectant" to "all public water systems that add a chlorine disinfectant or that deliver water that has a chlorine disinfectant."
The Maximum Residual Disinfectant Levels (MRDLs) apply to non-transient non community and community systems, including those that are secondary water systems. The Public Drinking Water Branch determines compliance with the MRDLs by reviewing the disinfectant levels on the bacteriological analysis cards. This change will make it clear that the secondary water systems are required to monitor their chlorine residuals at the time they collect their bacteriological samples.
RESPONSE AND EXPLANATION OF CHANGE: The department concurs with the recommended change. The operational chart (3) footnote number three (3) will be changed to add that all public water systems that deliver water that has a chlorine disinfectant must also monitor the chlorine residuals.

10 CSR 60-4.080 Operational Monitoring

(3) Sufficient analyses must be done to assure control of water quality, the following requirements notwithstanding. Continuous monitoring and recording may be used for any operational analysis instead of grab sampling provided that the requirements of section (2) are met. For those analyses where continuous monitoring is required, if there is a failure in the continuous monitoring equipment, grab sampling every four (4) hours of operation may be conducted in lieu of continuous monitoring but for no more than five (5) working days following the failure of the equipment. Applicable analyses and testing frequencies are as follows:

Test	Frequency	Sample Location	Treatment	Treatment	Treatment	Treatment
Alkalinity	As necessary for control	Raw Water	Clarification	Lime Softening		
Alkalinity	As necessary for control	Entry to distribution system	Clarification	Lime Softening		
Disinfection residual (1)	Continuous	Entry to distribution system				
Disinfection residual (2)	Daily	Entry to distribution system				
Disinfection residual (3)	At time of total coliform sampling	Total coliform sampling points				
Disinfection residual (4)	Monday-Friday, excluding federal holidays and days not serving water to the public	Entry to distribution system				
Disinfection residual	Start up and every 2 hours of operation	Filter influent and effluent	Clarification	Lime softening		
Fluoride (if compounds added)	Daily	Entry to distribution system	Fluoride adjustment			
Fluoride (if compounds added)	Quarterly	Representative point in distribution system	Fluoride adjustment			
Hardness (5)	Monday-Friday, excluding federal holidays and days not serving water to the public	Entry to distribution system	Ion Exchange softening			
Hardness	Daily	Entry to distribution system		Clarification	Lime Softening	
Hardness	As necessary for control		Ion Exchange softening			
Iron	As necessary for control	Filter influent and effluent	Iron removal	Clarification	Lime softening	
pH	As necessary for control	Entry to distribution system	Iron removal	Clarification	Lime softening	
pH	As necessary for control	Raw water	Clarification			
pH	As necessary for control	Filter effluent	Iron removal			
pH	As necessary for control	Primary and secondary basins	Lime softening			
pH(7)	As necessary for control	Entry to distribution system				

Phosphate (6)	As necessary for control	Downstream from point of application				
Sludge Concentration (9)	As necessary for control	Center cone and sludge blowoff and sample taps	Clarification	Lime softening		
Temperature (7)	As necessary for control	Entry to distribution system	Disinfection	Iron removal	Clarification	Lime softening
Turbidity(8)	Every four (4) hours	Combined filter effluent				
Turbidity (8)	continuously	Individual filter effluent				
Turbidity	As necessary for control	Entry point to distribution and filter influent	Iron removal	Clarification	Lime softening	

(1) Surface water and Groundwater under the Direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025 serving >3,300 population.
(2) Surface water, ground water under the direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025 serving <3,300 population. Lime softening, iron removal and systems directed by a compliance agreement to disinfect.
(3) All public water systems that add a chlorine disinfectant or that deliver water that has a chlorine disinfectant.
(4) Systems not required to disinfect. This excludes Surface water, Ground water under the direct influence of surface water, compliance monitoring systems under 10 CSR 60-4.025, lime softening, iron removal and systems directed by a compliance agreement to disinfect. An alternate frequency may be agreed upon in writing by the water system and the department, if warranted.
(5) If ion exchange softening is required of water system to meet national primary drinking water standards (ie. lead, radionuclides).
(6) If phosphate compounds are added to the water.
(7) Surface water and Groundwater under the Direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025.
(8) Surface water and Groundwater under the Direct influence of surface water.
(9) For facilities utilizing solids contact basins.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 60-4.090 Maximum Contaminant Levels and Monitoring Requirements for Disinfection By-Products **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1824). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed rescission. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.094 Disinfectant Residuals, Disinfection Byproduct Precursors and the Stage 2 Disinfectants/Disinfection Byproducts Rule **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1824–1834). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.100 Maximum Volatile Organic Chemical Contaminant Levels and Monitoring Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1834–1835). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 6—Enforcement**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-6.060 Waivers From Baseline Monitoring Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1835–1836). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 6—Enforcement**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-6.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1836–1837). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. One (1) comment was received.

COMMENT #1: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to

suggest that a previously mandatory department obligation had become discretionary. The proposed amendment would modify the language of that requirement from "shall" to "will." Because those terms may have different legal effect, the change may be misinterpreted.
RESPONSE AND SUMMARY OF CHANGE: The department is revising language in paragraph (2)(B)1., to retain the word "shall" in order to clarify the department's obligation.

10 CSR 60-6.070 Administrative Penalty Assessment

(2) Definitions.
(B) Additional definitions specific to this rule are as follows:
1. Conference, conciliation, and persuasion. A process of verbal or written communications consisting of meetings, reports, correspondence, or telephone conferences be-tween authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one (1) offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and attempt to agree upon a plan to achieve compliance;
2. Gravity-based assessment. The degree of seriousness of a violation taking into consideration the risk to human health or the environment posed by violations of sections 640.100 to 640.140, RSMo, and associated rules and permits;
3. Major violation. A violation that poses or may pose a substantial risk to human health or to the environment, or has or may have a substantial adverse effect on the purposes of or procedures for implementing the law and associated rules or permits;
4. Minor violation. A violation that poses a small potential to harm the environment or human health or cause pollution, and was not knowingly committed;
5. Moderate violation. A violation that poses or may pose a significant risk to human health or to the environment, or has or may have a significant adverse effect on the purposes of or procedures for implementing the law and associated rules or permits;
6. Multiple violation penalty. The sum of individual administrative penalties assessed when two (2) or more violations are included in the same complaint or enforcement action;
7. Multi-day violation. A violation that has occurred on or continued for two (2) or more consecutive or nonconsecutive days; and
8. Potential for harm. The extent to which a violation poses a risk to human health or the environment or has a substantial adverse effect on the purposes of or procedures for implementing the law and associated rules or permits.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 7—Reporting

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-7.010 Reporting Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1837–1843). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 8—Public Notification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-8.010 Public Notification of Conditions Affecting a Public Water Supply **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1843–1848). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 8—Public Notification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-8.030 Consumer Confidence Reports **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1848–1860). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 9—Record Maintenance

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule

as follows:

10 CSR 60-9.010 Requirements for Maintaining Public Water System Records **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1860). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 11—Backflow Prevention

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-11.010 Prevention of Backflow **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1860–1861). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 11—Backflow Prevention

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-11.030 Backflow Prevention Assembly Tester Certification **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1861). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-13.010 Grants for Public Water Supply Districts and Small Municipal Water Supply Systems **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1861–1863). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. No public comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-13.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1863–1875). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. The department received two (2) comments during the public comment period.

COMMENT #1: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory department obligation had become discretionary. The proposed amendment would modify the language of that requirement from "shall" to "should" or "are to." Because those terms may have different legal effect, the change may be misinterpreted.
RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in order to clarify the department's obligation.

COMMENT #2: Department staff noticed a typographical error in the proposed new language in paragraph (2)(I)8. The language was incorrectly proposed as "section 290.210–290.340."
RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the error.

COMMENT #3: Ms. Lacey Hirschvogel, with the Missouri Public Utility Alliance (MPUA), commented on new subsection (3)(G). She requested that the phrase "loan repayment period," be replaced with "a 20-year straight-line depreciation schedule." Ms. Hirschvogel also stated that, alternatively, this provision could be modified to use a depreciation schedule of the longer of (a) 20 years or (b) the original repayment term of the DWSRF loan for the project. She went on to say that use of the phrase "loan repayment period" has the potential to lead to inequalities in application of this provision among DWSRF grant recipients. Examples of this inequality could include if the recipient received a grant only and did not have a loan repayment period or if the recipient pays off the loan early.
RESPONSE AND EXPLANATION OF CHANGE: The department proposed this new subsection to clarify the procedures for when a DWSRF financed facility is sold. However, the proposed language does not fully clarify these procedures, as noted by the comment. Therefore, the department is adding the language from the comment, along with more language not specified in the comment, to further clarify the procedures. The added language will also address the specific case, albeit a rare one, when a facility is financed with grant only funds as described in the comment. A partial change has been made to this rule as a result of this comment.

10 CSR 60-13.020 Drinking Water State Revolving Fund Program

(2) Requirements for Assistance Recipients. This section applies to recipients of the DWSRF program.

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

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

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

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

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

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

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

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

6. Domestic products procurement law requirements in accordance with sections 34.350–34.359, RSMo;

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

8. State wage determination in accordance with sections 290.210 to 290.340, RSMo and 8 CFR 30 chapter 3;

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

10. Debarment/suspension requirements in accordance with 2 CFR part 180 subpart C;

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

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

13. Contractors must comply with the Davis-Bacon requirements in accordance with 29 CFR 5.5. The current Davis-Bacon wage rate from the United States Department of Labor must be incorporated in the bid documents; and

14. American Iron and Steel. Specifications shall adhere to requirements to utilize American Iron and Steel for projects involving the construction, alteration, maintenance, or repair of a public water system, when applicable. The department will publish the American Iron and Steel requirements in the annual intended use plan.

(M) Progress Payments to Contractors.

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

2. Retention from progress payments. The amount the recipient retains shall be in accordance with section 34.057, RSMo.

(3) DWSRF Direct Loans.

(D) Amortization Schedules. The following guidelines shall be used to establish amortization schedules under this rule:

1. The bonds, notes, or other debt obligations shall be fully amortized as outlined in 40 CFR 35.3525;

2. Principal payment frequency shall be no less than annual and interest payments at least semi-annual;

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

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

(G) If at any time the public water system or any part thereof,

funded with a DWSRF grant is sold, either outright or on contract for deed, to other than a political subdivision of the state, the department shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, the original loan repayment period or a twenty- (20-) year straight-line depreciation schedule in the event of grant only funds, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership.

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

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-13.025 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1875–1885). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. One (1) public comment was received and department staff provided two (2) comments on the proposed amendment.

COMMENT #1: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory department obligation had become discretionary. The proposed amendment would modify the language of that requirement from "shall" to "are to be" or "should." Because those terms may have different legal effect, the change may be misinterpreted.
RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in order to clarify the department's obligation.

COMMENT #2: In paragraph (8)(C)1., the department identified that the proposed language of "reviewed by final approval" should be modified to read "submitted by construction completion." This modified language is to provide clarity to the rule and to be consistent with 10 CSR 60-13.020(2)(D)1.
RESPONSE AND EXPLANATION OF CHANGE: Department staff concur with the change. A change has been made to the rule as a result of this comment.

COMMENT #3: In paragraph (8)(H)7., the department identified that the proposed maximum amount of one hundred fifty thousand dollars ($150,000) should be changed to fifty thousand dollars ($50,000). This was an oversight in the development of the proposed amendment language and should be corrected. This requirement was correctly proposed in 10 CSR 60-13.020(2)(I)7. The maximum amount of fifty thousand dollars ($50,000) is required by section 107.170, RSMo.
RESPONSE AND EXPLANATION OF CHANGE: A change has been made to the rule as a result of this comment.

10 CSR 60-13.025 State Loan Program

(7) Amortization Schedules. The following guidelines shall be used to establish amortization schedules under this rule:

(8) Requirements for Loan Recipients.
(C) Operation and Maintenance.
1. Operation and maintenance manual. The recipient must make provision satisfactory to the department for assuring operational efficiency be achieved as quickly as possible and effective operation and maintenance of the constructed project throughout its design life. If required by the department, recipients will develop an operation and maintenance manual in accordance with departmental guidelines. A draft operation and maintenance manual must be submitted by construction completion.
2. Start-up training. At construction completion, a start-up training proposal (if required) and proposed follow-up services contract must be submitted.
3. Personnel. The recipient must make provision satisfactory to the department for assuring that operator(s) and maintenance personnel are hired in accordance with an approved schedule.
4. System certification. If required by the department, one (1) year after initiation of operation of the constructed public water system, the recipient shall certify to the department whether or not the public water system meets the project performance standards. Any statement of noncompliance must be accompanied by a corrective action report containing an analysis of the cause of the project's inability to meet performance standards, actions necessary to bring it into compliance, and reasonably scheduled date for positive certification of the project. Timely corrective action shall be executed by the recipient.
(H) Specifications. The construction specifications must contain the following:
1. Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description, in competitive procurement, shall not contain features which unduly restrict competition unless the features are necessary to test or demonstrate a specific thing or to provide for interchangeability of parts and equipment. The description shall include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use;
2. The recipient shall avoid the use of detailed product specifications if at all possible;
3. When in the judgment of the recipient it is impractical or uneconomical to make a clear and accurate description of the technical requirements, recipients may use a brand name or equal description as a means to define the performance or other salient requirements of a procurement. The recipient need not establish the existence of any source other than the named brand. Recipients must state clearly in the specification the salient requirements of the named brand which must be met by offerers;
4. Sole source restriction. A specification shall not require the use of structures, materials, equipment, or processes which are known to be available only from a sole source, unless the department determines that the recipient's engineer has adequately justified in writing to the department that the proposed use meets the particular project's minimum needs;
5. Experience clause restriction. The general use of experience clauses requiring equipment manufacturers to have a record of satisfactory operation for a specified period of time or of bonds or deposits to guarantee replacement in the event of failure is restricted to special cases where the recipient's engineer adequately justifies any such requirement in writing. Where this justification has been made, submission of a bond or deposit shall be permitted instead of a specified experience period. The period of time for which the bond or deposit is required shall not exceed the experience period specified;

6. Domestic products procurement law requirements in accordance with sections 34.350–34.359, RSMo;
7. Bonding on construction contracts exceeding fifty thousand dollars ($50,000), the bid documents shall require each bidder to furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition, the bid documents must require the successful bidder to furnish performance and payment bonds, each of which shall be in an amount not less than one hundred percent (100%) of the contract price;
8. State wage determination in accordance with sections 290.210-290.340, RSMo and 8 CSR 30 Chapter 3;
9. Right of entry to the project site shall be provided for representatives of the department, the Environmental Improvement and Energy Resources Authority, and the Missouri State Auditor so they may have access to the work wherever it is in preparation or progress; and
10. The following statement: "The owner shall make payment to the contractor in accordance with section 34.057, RSMo."
(M) Progress Payments to Contractors.
1. Recipients should make prompt progress payments to prime contractors and prime contractors should make prompt progress payments to subcontractors and suppliers for eligible construction, supplies, and equipment costs in accordance with section 34.057, RSMo.
2. Retention from progress payments. The amount the recipient retains shall be in accordance with section 34.057, RSMo.

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

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-13.030 is amended.

A notice of the proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1885–1888). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. One (1) comment was received and one (1) typographical error was identified by the department.

COMMENT #1: Department staff noticed a typographical error in a rule reference in subsection (4)(B). The reference was incorrectly printed as (2).
RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the error.

COMMENT #2: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory department obligation had become discretionary. The proposed amendment would modify the language of that requirement from "shall" to "will." Because those terms may have different legal effect, the change may be misinterpreted.
RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in order to clarify the department's obligation.

10 CSR 60-13.030 Environmental Review

(4) Construction Prior to Environmental Review.
(B) Based upon the review of the information required by section (5) of this rule, the director will issue a FNSI/EA so conditioned as to prohibit construction of the remainder of the project until a complete environmental review has been performed and a subsequent environmental determination has been issued.

(5) Information Required for Environmental Review.
(A) Recipients seeking a CE shall provide the director with sufficient documentation to demonstrate compliance with the criteria of subsection (2)(A). At a minimum, this shall consist of a—
1. Brief, complete description of the proposed project and its costs;
2. Statement indicating that the project is cost-effective and that the recipient is financially capable of constructing, operating, and maintaining the facilities; and
3. Plan map(s) of the proposed project showing—
A. The location of all construction areas;
B. The planning area boundaries; and
C. Any known environmentally sensitive areas.
(B) An EID shall be submitted by those recipients whose proposed projects do not meet the criteria for a CE and for which the director has made a preliminary determination that an EIS will not be required. The director will provide guidance on both the format and contents of the EID to potential recipients prior to initiation of facilities planning.
1. At a minimum, the contents of an EID shall include:
A. The purpose and need for the project;
B. Information describing the current environmental setting of the project and the future environmental setting without the project;
C. The alternatives to the project as proposed;
D. A description of the proposed project;
E. The proposed impact of the project and alternatives on the user rates;
F. The potential environmental impacts of the project as proposed including those which cannot be avoided;
G. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity;
H. Any irreversible and irretrievable commitments of resources to the proposed project;
I. Proposed mitigation measures to minimize the environmental impacts of the project;
J. A description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and
K. Documentation of coordination with appropriate governmental agencies.
2. The recipient shall hold a public meeting or hearing on the proposed project and the EID, and provide the director with a complete record of the meeting or hearing. The meeting or hearing will be advertised at least thirty (30) days in advance in a local newspaper of general circulation. Included with the meeting record will be a list of all attendees with addresses, any written testimony, and the recipient's responses to the issues raised.
(C) The format of an EIS shall encourage sound analyses and clear presentation of alternatives, including the no-action alternative and the selected alternative and their environmental, economic, and social impacts. The following format shall be followed by the recipient unless the director determines there are compelling reasons to do otherwise:
1. A cover sheet identifying the recipient, the project(s), the program through which financial assistance is requested, and the date of publication;

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

A. A description of the existing problem;

B. A description of each alternative;

C. A listing of each alternative's potential environmental impacts, mitigative measures, and any areas of controversy; and

D. Any major conclusions;

3. The body of the EIS which shall contain the following information:

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

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

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

(I) Providing financial assistance to the proposed project;

(II) Requiring that the proposed project be modified prior to providing financial assistance to reduce adverse environmental impacts or providing assistance with conditions requiring the implementation of mitigative measures; and

(III) Not providing financial assistance;

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

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

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

5. Material incorporated into an EIS by reference will be organized into a supplemental information document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons within the comment periods specified in paragraph (5)(C)4. and subparagraph (5)(C)7.C.;

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

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

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

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

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

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

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

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

(V) Identify consultation requirement of other laws and regulations; and

(VI) Determine the relationship between the preparation of the EIS and the completion of the engineering report and any necessary arrangements for coordination of the preparation of both documents; and

C. Following the scoping process, the director will begin the identification and evaluation of all potentially viable alternatives to adequately address the range of issues developed in the scoping. A summary of this, including a list of the significant issues identified, will be provided to the recipient and other interested parties. Preparation of the EIS will be done at the discretion of the department: directly, by the staff; by consultants to the department; or by a consultant contracted by the recipient subject to approval by the department. In the latter two (2) cases, the consultant will be required to execute a disclosure statement prepared by the department signifying they have no financial or other conflicting interest in the outcome of the project. Both the draft EIS and final EIS will be distributed and made available for public review in a fashion consistent with the requirements of paragraph (5)(B)2. of this rule except that the advertisement and comment period for the public participation will be no less than forty-five (45) days. The department will publish in a newspaper of general circulation in the project area, a notice of availability of the EIS giving locations at which it will be available for public review at least forty-five (45) days prior to making any environmental determination.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 14—Operator Certification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-14.010 Classification of Public Water Systems and System Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1888–1891). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Public Drinking Water Branch staff provided testimony on the proposed amendment. The department received one (1) written comment during the public comment period.

COMMENT: Mr. Robert E. Jones, President of the Oakwood Water Association, commented that the department should provide a classification level lower than a Drinking Water Distribution level 1 for any community water system that has a single source, no alternate connections, no treatment facility, and no metered connections that can be certified through online courses and tests.
RESPONSE: The department considered creating either an operator in training certification or a small system certification to allow very small systems to obtain a properly certified operator. These were rejected because it would create a new certificate that would not be substantially different from the existing DS-I certificate. The DS-I, which is the lowest level of DS certification, can be obtained by completing a department-approved class and passing the certification exam. The department would like to clarify that certain correspondence courses have been approved as pre-certification courses worth six (6) months of equivalent experience, but the department is not aware of an online course that is available for review and consideration that covers the broad range of topics necessary to meet the course requirements for a pre-certification course. The department has approved many shorter online courses for certified operators to consider when obtaining renewal training hours to maintain existing certificates. Certification exams are currently not available online due to security concerns, costs, and logistics necessary for Information Technology support associated with providing them electronically. No changes to the rule have been made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 14—Operator Certification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-14.020 Certification of Public Water System Operators **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1891–1892). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Public Drinking Water Branch staff provided testimony on the proposed amendment. The department received three (3) written comments during the public comment period.

COMMENT #1: Paul T. Priebe, KCMO Water Services, commented that the department is proposing to remove paragraphs (1)(K)1., 2., and 3. under and expressed concern that the information in the leading subsection of (1)(K) would be incomplete.

RESPONSE: The department agrees that the amendment does propose under subsection (1)(K) to remove paragraphs 1., 2., and 3., but offers clarification that a portion of paragraph 1. will be incorporated into the subsection (1)(K) to form a complete sentence. The final language is proposed to read, "Upon successful completion of the examination, the individual will have to obtain the necessary applicable treatment or distribution system experience within eighteen (18) months from the date of the examination." The language proposed to be removed causes no changes to current certification processes, but does reduce unnecessary text related to examinations that occurred in 2001. No changes to the rule have been made as a result of this comment.

COMMENT #2: Paul T. Priebe, KCMO Water Services, commented that the department is proposing to increase the burden on operators by changing when exam applications must be submitted from "submitted to" to "received by" and thereby lengthening the amount of time necessary for the operator to submit an application. He commented the change needs to be denied and stated that the department is still living in the 1970's and the time it takes to get results is also ridiculous.

RESPONSE: The department would like to clarify the proposed amendments. It appears Mr. Priebe has misinterpreted the proposed amendment change. The current rule language requires applications to be "received by" the department at least thirty (30) days prior to the examination date. The proposal is to replace "received by" with "submitted to." This change is in line with the department's current practice to use a post marked date to determine if an application met the thirty (30) day timeframe and allows the operator a few extra days in the timeline. The length of time it takes the department to issue exam results in not included in this rule. No changes to the rule have been made as a result of this comment.

COMMENT #3: Paul T. Priebe, KCMO Water Services, commented that the department should consider changes to 10 CSR 60-14.020(1)(D) Table 3. Equivalent Experience. He states that a thorough analysis should be carried out to identify what four (4) year degrees best fit the field of water treatment to receive two (2) years of equivalent experience toward certification.

RESPONSE: The department confirms that the proposed amendments do not include subsection (1)(D) Table 3. Equivalent Experience. The department appreciates the comment and agrees that should a change be considered in future amendments, it should be done in a thorough manner. The department believes the table currently includes a sufficient description of the type of four- (4-) year degrees that qualify for two (2) years of equivalent experience as "chemical/biological/environmental allied science or allied sciences or public health, or civil, mechanical, electrical or related engineering degree." No changes to the rule have been made as a result of this comment.

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