

**Missouri Division of Developmental Disabilities
Prioritization of Need Form**

The answers on this form should reflect how much support or assistance the person needs or requires, either for the management of a behavioral or health condition or to complete a task or activity. This may not be the same as how much support or assistance the person is currently receiving. Unless specifically asked to do otherwise, consider the past 3 to 6 months when answering the questions. Please check only one box per item, unless specifically asked to do otherwise.

After identifying the type of support need for each item, please identify if there is an unmet need placing the person at risk of illness, injury or harm.

Please skip the following four sections if the individual is under the age of **seven**: Daily Living Supports, Personal Care Supports, Safety, and Unusual Behavioral Supports.

PLEASE CHECK YES FOR ANY CRITICAL SERVICE SITUATION; OTHERWISE, CHECK NO.		
Critical Service Situation	No ✓	Yes ✓
a. Young adult aging out of Lopez or Autism Waiver and needs the same level of care to maintain well-being	<input type="checkbox"/>	<input type="checkbox"/>
b. Olmstead issue	<input type="checkbox"/>	<input type="checkbox"/>
c. Is the focus of a court order or imminent court order	<input type="checkbox"/>	<input type="checkbox"/>
d. The person is under age 18 and requires coordinated services through several agencies to avoid court action	<input type="checkbox"/>	<input type="checkbox"/>
e. The person is in the care and custody of DSS Children's Division, which has a formal agreement in place with a division regional office (when formal agreement is ending)	<input type="checkbox"/>	<input type="checkbox"/>
f. Requires immediate life-sustaining intervention to prevent an unplanned hospitalization or residential placement	<input type="checkbox"/>	<input type="checkbox"/>
g. Person needs immediate services in order to protect self, another person(s) from immediate harm.	<input type="checkbox"/>	<input type="checkbox"/>
State page and paragraph in service plan where this is documented:		

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CHECK THE **ONE** BOX WHICH BEST DESCRIBES HOW MUCH SUPPORT THE PERSON **TYPICALLY** REQUIRES TO DO EACH DAILY LIVING ACTIVITY. FOR EACH ITEM, INDICATE IF THERE IS AN UNMET NEED PLACING A PERSON AT RISK OF ILLNESS, INJURY OR HARM.

Daily Living Supports		✓	Unmet Need ✓
1. Mobility in the Community – Includes the ability to move around outside and in the community (Does not include any transportation needs). *please refer to the manual if the person is wheelchair dependent*	Independent	0	<input type="checkbox"/>
	Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
2. Taking Medications – Includes taking the correct medication, accurate dose, and proper consistency (e.g., crushed) at the correct time or filling pillbox if used. Includes monitoring glucose level if needed.	Independent	0	<input type="checkbox"/>
	Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
3. Using the Telephone – Includes dialing the number and/or communication over the phone	Independent	0	<input type="checkbox"/>
	Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
4. Doing Household Chores – Includes housecleaning, laundry, etc.	Independent	0	<input type="checkbox"/>
	Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
5. Shopping and Meal Planning – Includes planning for meals and shopping for groceries or other goods in neighborhood area.	Independent	0	<input type="checkbox"/>
	Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
6. Meal Preparation and Cooking – Includes getting the food out of the cupboard or refrigerator, preparing food (including making food into appropriate consistency such as ground up, specified piece size, pureed, or liquefied), making cold meals (such as sandwiches or snacks), and cooking simple meals.	Independent	0	<input type="checkbox"/>
	Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	

Level of unmet need score (0 to 12): If unmet need category is endorsed, sum responses. Total= ____

What page and paragraph can a detailed description of unmet need be found in the service plan?

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CHECK THE <u>ONE</u> BOX WHICH BEST DESCRIBES HOW MUCH SUPPORT THE PERSON <u>TYPICALLY</u> REQUIRES TO DO EACH PERSONAL CARE ACTIVITY. FOR EACH ITEM, INDICATE IF THERE IS AN UNMET NEED PLACING A PERSON AT RISK OF ILLNESS, INJURY OR HARM.			
Personal Care Supports			Unmet Need ✓
7. Dressing and Undressing – Includes ability to take clothes out of drawers, choose weather appropriate clothes, and use of fasteners.	Independent	0	<input type="checkbox"/>
	Verbal Prompting/Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
8. Bathing or Showering – Includes sponge bath, tub bath or shower and water temperature regulation.	Independent	0	<input type="checkbox"/>
	Verbal Prompting/Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
9. Grooming and Personal Care – Includes brushing teeth or hair, shaving or applying deodorant.	Independent	0	<input type="checkbox"/>
	Verbal Prompting/Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
10. Using the Toilet – Includes going to the bathroom for bowel and urine elimination, wiping self, menstruation care, incontinent care, and ostomy/catheter care.	Independent	0	<input type="checkbox"/>
	Verbal Prompting/Monitoring	1	
	Partial hands-on Assistance	2	
	Total hands-on assistance	2	
11. Eating (includes IV, NG, G, or J tube feeding) – Includes ability to use fork or spoon from plate to mouth and to cut food. Does not include chewing and swallowing (covered below).	Independent	0	<input type="checkbox"/>
	Verbal Prompting/Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
12. Changing Position in Bed – Includes ability to turn side to side. Does not include ability to get out of bed or chair.	Independent	0	<input type="checkbox"/>
	Verbal Prompting/Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
13. Chewing and Swallowing – Includes ability to chew food and swallow food without choking.	Independent	0	<input type="checkbox"/>
	Verbal Prompting/Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
14. Mobility in the Home – Includes the ability to move around inside the home or residence. *please refer to the manual if the person is wheelchair dependent*	Independent	0	<input type="checkbox"/>
	Partial Assistance/Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
15. Transferring – Includes ability to move from bed to a chair or to a wheelchair.	Independent	0	<input type="checkbox"/>
	Verbal Prompting/Monitoring	1	
	Partial hands-on assistance	2	
	Total hands-on assistance	2	
Level of unmet need score (0 to 18): If unmet need category is endorsed, sum responses. Total= ___			
Is attention required during overnight? No <input type="checkbox"/> Yes <input type="checkbox"/> Unmet need? <input type="checkbox"/> +1			
What page and paragraph can a detailed description of unmet need be found in the service plan?			

**Missouri Division of Developmental Disabilities
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PLEASE CHECK THE ONE BOX WHICH BEST DESCRIBES SAFETY SUPPORTS. FOR EACH ITEM, INDICATE IF THERE IS AN UNMET NEED PLACING A PERSON AT RISK OF ILLNESS, INJURY OR HARM.			
Safety Supports	No ✓	Yes ✓	Unmet Need ✓
16. The person responds appropriately <u>without prompting</u> to basic safety issues at home – for example, evacuating the residence if there is a fire.	<input type="checkbox"/> 1	<input type="checkbox"/> 0	<input type="checkbox"/>
17. Overall, the person usually makes safe choices when at home – for example, not putting metal in a microwave or toaster, not opening the door to strangers or locking the door at night.	<input type="checkbox"/> 1	<input type="checkbox"/> 0	<input type="checkbox"/>
18. The person <u>always</u> requires 2 people for transferring, fire evacuation, or positioning.	<input type="checkbox"/> 0	<input type="checkbox"/> 1	<input type="checkbox"/>
19. The person is able to obtain necessary emergency assistance by some means – for example, dialing 911, pressing an emergency button, getting help from a neighbor, etc.	<input type="checkbox"/> 1	<input type="checkbox"/> 0	<input type="checkbox"/>
20. The person responds appropriately to safety issues when <u>not at home</u> – for example, evacuating building appropriately if fire alarm goes off, staying on the sidewalk or refusing a ride from a stranger.	<input type="checkbox"/> 1	<input type="checkbox"/> 0	<input type="checkbox"/>
21. The person is able to avoid being taken advantage of financially – for example, not giving his/her money to strangers, or not giving out personal financial or social security information to strangers.	<input type="checkbox"/> 1	<input type="checkbox"/> 0	<input type="checkbox"/>
22. The person is able to avoid being taken advantage of sexually or is able to avoid sexual exploitation, including when at home, in the community, or with strangers.	<input type="checkbox"/> 1	<input type="checkbox"/> 0	<input type="checkbox"/>
<p>Level of unmet need score (0 to 7): If unmet need category is endorsed, sum responses. Total= ___</p> <p>Is attention required during overnight? No <input type="checkbox"/> Yes <input type="checkbox"/> Unmet Need? <input type="checkbox"/> +1</p> <p>What page and paragraph can a detailed description of unmet need be found in the service plan?</p>			

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Support Required	Support Frequency
<ul style="list-style-type: none"> No Support Needed=No support needed or can ignore behavior. Monitor=Monitor only using a person or through environmental means. Includes monitoring for behaviors addressed by medications or treatment plan. Verbal Redirection=Verbal or gestural redirection or prompting typically needed. Hands-on Support=One person hands-on support typically needed to redirect or support person. 	<ul style="list-style-type: none"> Episodic=Episodic, or seasonal only Less Monthly=Less than monthly Monthly=Monthly Weekly=Weekly Daily=Once a day or more

PLEASE CHECK YES FOR ANY BEHAVIORS SUPPORTED OR JUSTIFIED IN THE SERVICE PLAN ACTION STEPS IN THE PAST 12 MONTHS; OTHERWISE, CHECK NO. THEN FILL IN THE CODES FOR THE TYPE AND FREQUENCY OF SUPPORT TYPICALLY NEEDED DURING WAKING HOURS FOR EACH BEHAVIOR. TREATMENT PLANS WITH ACTION STEPS INCLUDE STRATEGIES TO: 1) CHANGE A BEHAVIOR; 2) REPLACE A BEHAVIOR; 3) ADDRESS A BEHAVIOR THROUGH SUPPORT STRATEGIES. FOR EACH ITEM, INDICATE IF THERE IS AN UNMET NEED PLACING A PERSON AT RISK OF ILLNESS, INJURY OR HARM.

Behavioral Supports I	No	Yes	Support	✓	Frequency	✓	Unmet Need
	✓	✓					
23. Bolting (Suddenly running or darting away--excludes wandering away).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
24. Eating or drinking <u>nonfood</u> item (pica) (Includes ingestion of items or liquids not meant for food, such as paper clips, coins, detergent, dirt, cleaning solutions, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
25. Impulsive food or liquid ingestion (Includes binge eating or compulsive, rapid ingestion of large quantities of food or liquid).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
26. Intentional property destruction.	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
27. Self-injurious behavior (Includes any behavior which harms one's physical self, such as head banging, biting/ hitting self, skin picking, scratching self, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
28. Severe physical assault or aggression (Can cause injury such as biting, or punching, or attacking).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands on Support	3	Weekly	4	
					Daily	5	

Level of unmet need score (0 to 8): If unmet need category is endorsed, add support + frequency. Report the highest individual score. Total= ___

Is attention required during overnight? No Yes Unmet Need? +1

What page and paragraph can a detailed description of unmet need be found in the service plan?

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Support Required	Support Frequency
<ul style="list-style-type: none"> No Support Needed=No support needed or can ignore behavior. Monitor=Monitor only using a person or through environmental means. Includes monitoring for behaviors addressed by medications or treatment plan. Verbal Redirection=Verbal or gestural Redirection or prompting typically needed. Hands-on Support=One person hands-on support typically needed to redirect or support person. 	<ul style="list-style-type: none"> Episodic=Episodic, or seasonal only Less Monthly=Less than monthly Monthly=Monthly Weekly=Weekly Daily=Once a day or more

PLEASE CHECK YES FOR ANY BEHAVIORS SUPPORTED OR JUSTIFIED IN THE SERVICE PLAN WITH ACTION STEPS IN THE **PAST 12 MONTHS**; OTHERWISE, CHECK NO. THEN FILL IN THE CODES FOR THE TYPE AND FREQUENCY OF SUPPORT TYPICALLY NEEDED DURING WAKING HOURS FOR EACH BEHAVIOR. TREATMENT PLANS WITH ACTION STEPS INCLUDE STRATEGIES TO: 1) CHANGE A BEHAVIOR; 2) REPLACE A BEHAVIOR; 3) ADDRESS A BEHAVIOR THROUGH SUPPORT STRATEGIES. FOR EACH ITEM, INDICATE IF THERE IS AN UNMET NEED PLACING A PERSON AT RISK OF ILLNESS, INJURY OR HARM.

Behavioral Supports II	No	Yes	Support		Frequency		Unmet Need
	✓	✓	✓	✓	✓	✓	
29. Disruptive behaviors, <u>not</u> aggression (Includes any behavior which disrupts or interferes with activities of the person or others).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
30. Mild physical assault, aggression or theft (Does not cause injury, such as pushing, grabbing, or spitting).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
31. Opposes support or assistance that places the individual at risk of illness, injury or harm (Includes resisting care or assistance).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
32. Verbal aggression or emotional outbursts (Includes verbal threats, name calling, verbal outbursts, and temper tantrums).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	
33. Wandering away (Excludes bolting).	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Episodic	1	<input type="checkbox"/>
			Monitor	1	Less Monthly	2	
			Verbal Redirection	2	Monthly	3	
			Hands-on Support	3	Weekly	4	
					Daily	5	

Level of unmet need score (0 to 8): If unmet need category is endorsed, add support + frequency. Report the highest individual score. Total= __

Is attention required during overnight? No Yes Unmet Need? +1

What page and paragraph can a detailed description of unmet need be found in the service plan?

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Support Required	Support Frequency
<ul style="list-style-type: none"> • No Support Needed=No support needed or can ignore behavior. • Monitor=Monitor only, using a person or through environmental means. Includes monitoring for behaviors addressed by medications or treatment plan. • Verbal Redirection=Verbal or gestural Redirection or prompting typically needed. • Hands-on Support=One person hands-on support typically needed to redirect or Support person. 	<ul style="list-style-type: none"> • Controlled=Condition is well controlled or stable (includes controlled by medication or other means) • Intermittent=Condition is intermittent or episodic • Uncontrolled=Condition is uncontrolled or currently in crisis

PLEASE CHECK YES FOR ANY DIAGNOSED MENTAL HEALTH CONDITIONS SUPPORTED OR JUSTIFIED IN THE SERVICE PLAN WITH ACTION STEPS IN THE PAST 12 MONTHS; OTHERWISE, CHECK NO. THEN FILL IN THE CODES FOR THE TYPE AND FREQUENCY OF SUPPORT TYPICALLY NEEDED DURING WAKING HOURS FOR EACH PSYCHIATRIC CONDITION. DIAGNOSIS MUST BE BASED ON ORIGINAL SOURCE DOCUMENTATION FROM A LICENSED CLINICIAN. FOR EACH ITEM, INDICATE IF THERE IS AN UNMET NEED PLACING A PERSON AT RISK OF ILLNESS, INJURY OR HARM.

Psychiatric or Mental Health Axis I Diagnosis	No ✓	Yes ✓	Support		Frequency		Unmet Need ✓
			✓	✓	✓	✓	
38. Diagnosed psychotic disorder (Includes schizophrenia, psychosis, schizoaffective disorder, etc. Write in formal diagnosis). _____	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Controlled	1	<input type="checkbox"/>
			Monitor	1	Intermittent	2	
			Verbal Redirection	2	Uncontrolled	3	
			Hands-on Support	3			
39. Diagnosed mood disorder (Includes bipolar disorder, major depression, depressive disorder, etc. Write in formal diagnosis). _____	<input type="checkbox"/>	<input type="checkbox"/>	No support needed	0	Controlled	1	<input type="checkbox"/>
			Monitor	1	Intermittent	2	
			Verbal Redirection	2	Uncontrolled	3	
			Hands-on Support	3			

Level of unmet need score (0 to 6): If unmet need category is endorsed, add support + frequency. Report the highest individual score. Total=___

Is attention required during overnight? No Yes Unmet Need? +1

What page and paragraph can a detailed description of unmet need be found in the service plan?

**Missouri Division of Developmental Disabilities
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Support Frequency

- No Support Needed=No support needed for prescribed medical treatments
- Less than Weekly=Less than one time per week
- Once a Week=Once a week
- Several Times a Week=Two or more times per week
- Once a Day=Once a day
- Multiple Times a Day=Multiple times a day

PLEASE CHECK YES FOR ANY PRESCRIBED MEDICAL TREATMENTS, PROCEDURES OR CONDITIONS SUPPORTED OR JUSTIFIED IN THE SERVICE PLAN; OTHERWISE, CHECK NO. SUPPORT FREQUENCY REFERS TO THE AMOUNT OF CARE ASSOCIATED WITH THE TREATMENT, RATHER THAN THE FACT THAT THE PERSON ALWAYS USES ONE. DO NOT INCLUDE TIME REQUIRED FOR MEDICAL OFFICE VISITS OR OFF-SITE MEDICAL TREATMENTS. FOR EACH ITEM, INDICATE IF THERE IS AN UNMET NEED PLACING A PERSON AT RISK OF ILLNESS, INJURY OR HARM.

Prescribed Medical Treatments	No ✓	Yes ✓	Frequency		Prescribed Medical Treatments	No ✓	Yes ✓	Frequency	
				✓					✓
40. Artificial ventilator – This refers to mechanical ventilators which breathe for the person and are on continuously. Consider care and monitoring of ventilator.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0	46. Postural Drainage/Chest PT – Consider how often postural drainage or chest PT is needed.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0
			Less than weekly	1				Less than weekly	1
			Once a week	2				Once a week	2
			Several times a week	3				Several times a week	3
			Once a day	4				Once a day	4
			Multiple times day	5				Multiple times day	5
41. Catheter – If catheter is used continuously, consider catheter care only, such as insertion, removal, cleaning and emptying bag.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0	47. Respiratory suctioning – Consider how often respiratory suctioning is needed.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0
			Less than weekly	1				Less than weekly	1
			Once a week	2				Once a week	2
			Several times a week	3				Several times a week	3
			Once a day	4				Once a day	4
			Multiple times day	5				Multiple times day	5
42. Inhalation therapy or nebulizer – Consider how often each treatment is needed. This does not include oxygen.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0	48. Seizure disorder care (includes grand mal or convulsive seizure).	<input type="checkbox"/>	<input type="checkbox"/>	No Support/Controlled	0
			Less than weekly	1				Less than weekly	1
			Once a week	2				Once a week	2
			Several times a week	3				Several times a week	3
			Once a day	4				Once a day	4
			Multiple times day	5				Multiple times day	5
43. Needle injection - Consider how often an injection is given.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0	49. Tracheostomy – Consider care of stoma, cannula, and any other trach care.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0
			Less than weekly	1				Less than weekly	1
			Once a week	2				Once a week	2
			Several times a week	3				Several times a week	3
			Once a day	4				Once a day	4
			Multiple times day	5				Multiple times day	5
44. Ostomy (colostomy or ileostomy) – Consider care related to the ostomy, such as cleaning the tube area of emptying the bag.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0	50. Tube/IV Feeding (nasogastric, G or J tube, IV) – Consider how often tube/IV feeding is required.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0
			Less than weekly	1				Less than weekly	1
			Once a week	2				Once a week	2
			Several times a week	3				Several times a week	3
			Once a day	4				Once a day	4
			Multiple times day	5				Multiple times day	5
45. Oxygen – If the oxygen is used continuously, consider how often care is needed to administer the oxygen; otherwise consider how often oxygen is needed.	<input type="checkbox"/>	<input type="checkbox"/>	No Support	0				No Support	0
			Less than weekly	1				Less than weekly	1
			Once a week	2				Once a week	2
			Several times a week	3				Several times a week	3
			Once a day	4				Once a day	4
			Multiple times day	5				Multiple times day	5

Level of unmet need score (0 to 5): If unmet need category is endorsed, add support + frequency. Report the highest individual score. Total= ___

Is attention required during overnight? No Yes Unmet Need? +1

What page and paragraph can a detailed description of unmet need be found in the service plan?

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PLEASE CHECK YES FOR ANY DIAGNOSED CONDITION THAT REQUIRES MONITORING BY A LICENSED PROFESSIONAL AND AN ACTIVE TREATMENT PLAN IN THE PAST 12 MONTHS; OTHERWISE, CHECK NO. FOR EACH ITEM, INDICATE IF THERE IS AN UNMET NEED PLACING A PERSON AT RISK OF ILLNESS, INJURY OR HARM.

Diagnosed Health Conditions	No ✓	Yes ✓	Unmet Need ✓	Diagnosed Health Conditions	No ✓	Yes ✓	Unmet Need ✓
51. Arthritis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	62. Injuries and/or falls that require medical attention at least monthly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
52. Cancer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	63. Lung disease (COPD, emphysema, pulmonary edema, asthma)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
53. Choking that requires attention at least daily	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	64. Ongoing open wound care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
54. Chronic pain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	65. Orthopedic conditions (e.g., scoliosis, hip dysplasia, contractures)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
55. Dementia/Alzheimer's disease	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	66. Ongoing skin breakdowns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
56. Diabetes (controlled by diet, oral medications, or injections)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	67. Pregnancy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
57. Diabetes (controlled by injections given at a medical facility)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	68. Stroke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
58. Dialysis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	69. Other neurological impairment (included meningitis, hydrocephalus, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
59. Frequent medical visits (monthly)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	70. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
60. Frequent medical visits (weekly or more)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	71. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
61 History of suicide attempts or serious threats—active treatment plan in place	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

Is attention required during overnight? No Yes Unmet Need?

What page and paragraph can a detailed description of unmet need be found in the service plan?

PLEASE CHECK YES FOR ANY DEVELOPMENTAL DISABILITY DIAGNOSIS.

Developmental Disability Diagnosis	No ✓	Yes ✓	Developmental Disability Diagnosis	No ✓	Yes ✓
72. Mental retardation	<input type="checkbox"/>	<input type="checkbox"/>	77. Autism, Asperger's Syndrome, or pervasive developmental disorder	<input type="checkbox"/>	<input type="checkbox"/>
73. Cerebral palsy	<input type="checkbox"/>	<input type="checkbox"/>	78. Brain injury (TBI, ABI)	<input type="checkbox"/>	<input type="checkbox"/>
74. Down syndrome	<input type="checkbox"/>	<input type="checkbox"/>	79. Spina bifida	<input type="checkbox"/>	<input type="checkbox"/>
75. Prader Willi	<input type="checkbox"/>	<input type="checkbox"/>	80. Other _____	<input type="checkbox"/>	<input type="checkbox"/>
76. Other chromosomal disorder (Fragile X, Klinefelter's Syndrome, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	81. Other _____	<input type="checkbox"/>	<input type="checkbox"/>

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PLEASE CHECK YES FOR THE SOCIAL SUPPORTS CATEGORY THAT IS MOST REFLECTIVE OF THE PERSON'S SITUATION AND NEED FOR FUTURE PLANNING ACTIVITIES							
Natural Supports	No	Yes	Does not impact care	Slight impact on care—no actions required	Moderate impact on care—begin planning in the next 3 years	Heavy impact on care—begin planning in the next 12 months	Emergency—immediate intervention is needed
	✓	✓					
Person has no natural supports SKIP THIS SECTION							
82. Death of primary caregiver	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
83. Primary caregiver has diagnosed terminal diagnosis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
84. Single caregiver family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
85. Risk of removal from home as evidenced by an open Children's Division investigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
86. Primary caregiver has a documented intellectual disability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
87. Primary caregiver has a documented mental diagnosis (includes memory problems)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
88. Primary caregiver has no access to backup caregivers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
89. Primary caregiver caring for an aging parent, ill spouse, or other relative with disabilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
90. Primary caregiver works	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
91. Primary caregiver has a physical disability/chronic disease/incapacitated	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
92. Primary caregiver has more than 3 children under the age of 10 living in the home	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
93. Family has no permanent home	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
94. Family /person is at risk of losing home due to financial constraints	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
95. Primary caregiver is facing jail time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
96. Environment with domestic/sexual violence as evidenced by police reports	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
97. Temporary care giving arrangement *please see manual*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
98. Primary caregiver lost employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
99. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Level of unmet need score (0 to 4): If unmet need category is endorsed, report the highest individual score. Total= ___							
What page and paragraph can a detailed description of the impact be found in the service plan?							

**Missouri Division of Developmental Disabilities
Prioritization of Need Form**

This document was produced under grant CFDA 93.779 from the US Department of Health and Human Services, Centers for Medicare and Medicaid Services. However, these contents do not necessarily represent the policy of the U.S. Department of Health and Human Services, and you should not assume endorsement by the Federal Government.

AUTHORITY: sections 630.050 and 633.110.2, RSMo [2000] Supp. 2011. Original rule filed March 31, 2006, effective Nov. 30, 2006. Amended: Filed Feb. 1, 2012.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of [Mental Retardation and]
Developmental Disabilities
Chapter 2—Eligibility for Services**

PROPOSED AMENDMENT

9 CSR 45-2.020 Appeals Procedures for Service Eligibility Through the Division of [Mental Retardation and] Developmental Disabilities. The division is amending the division title, the rule title, and sections (1)–(4) and deleting section (5).

PURPOSE: This amendment changes the name of the division to comply with HB 555 and HB 648 which remove the term “mental retardation” from Missouri statutes. The amendment changes references to “regional centers” to “regional offices,” changes “case manager” to “service coordinator,” adds a definition for “individual,” changes the word “client” to the word “individual,” and adds the term “intellectual disability” to references to “mental retardation.” The amendment also removes the appeal step to the department director.

(1) As used in this rule, the following terms mean:

(A) Appeals referee, shall be an impartial, neutral, trained decision maker not employed with the Division of [Mental Retardation and] Developmental Disabilities;

(B) Applicant, a person suspected to [be] have an intellectual disability (also called mentally retarded) or developmental/[y disabled] disability and for whom application has been made for regional [center] office services or the person’s representative;

(C) Client, a person who receives services of the Division of [Mental Retardation and] Developmental Disabilities or their [client’s] representative. **Clients will be referred to as individuals hereafter in this rule;**

(D) Representative, shall include, but not necessarily be limited to, the applicant’s/[client’s]individual’s legal guardian, parent of a minor applicant, or [client] individual and protector (as defined by 9 CSR 45-3.040); and

(E) Supervisor, a [case management] supervisor of service coordinators in a regional [center] office or a unit director in a [mental retardation] developmental disability facility.

(2) Any person who is suspected to [be] have an intellectual disability (also called mentally retarded) or developmental/[y disabled] disability shall be eligible for initial diagnostic and counsel-

ing services through the regional [center] office.

(B) Decisions as to an applicant’s eligibility for services, or [a client’s] an individual’s eligibility for continued services, shall be based on an assessment of the applicant’s/[client’s]individual’s eligibility as determined by Missouri statutes. In making their determinations, staff (for example, members of the assessment team, [case managers] service coordinators, heads of the facilities, appeals referees, and the director of the Missouri Department of Mental Health (DMH)) shall consider, but need not be limited to, each of the following factors and the appeals referee shall include in his/her written decision findings of fact and conclusions of law on each criterion considered:

1. The best interest of the [client] individual/applicant;
2. The person’s level of adaptive behavior and functioning, including the effect upon the individual’s ability to function at either the same or an improved level of interpersonal and functional skills if support from the DMH and contracting private providers is withdrawn or denied; and
3. Whether the [client] individual is eligible for services under the laws of Missouri.

(3) If the applicant, based upon the initial diagnostic evaluation or comprehensive evaluation, or if a [client] individual, based upon a re-evaluation, has been determined ineligible for regional [center] office services, the applicant or [client] individual may appeal the decision on eligibility.

(A) Appropriate, effective notice of the eligibility determination shall be given to the applicant/[client]individual. This notice shall be given in writing, and verbally, when possible, on a standard DMH form within ten (10) working days of the ineligibility decision. The written notice shall include a specific statement of the factual and legal reasons for ineligibility, a statement that the applicant/[client]individual has the right to appeal that decision and the name, address, and telephone number of the facility staff person to contact for further information about the decision, the appeals process, or both. In addition to the notice, the applicant/[client]individual shall receive a brochure which explains the appeals process and the appeals procedures open to the applicant/[client]individual. If there is any question about the applicant’s/[client’s]individual’s ability to understand either the form or the brochure after s/he receives his/her notice in person or by telephone, the Missouri Division of [Mental Retardation and] Developmental Disabilities staff person shall verbally explain the basis for the denial of eligibility and the appeals process to the applicant/[client]individual and shall assist the applicant/[client]individual in initiating an appeal and contacting Missouri Protection and Advocacy Services. Notice shall be hand-delivered or shall be sent by registered or certified United States mail, return receipt requested, and given verbally, where appropriate, at least thirty (30) days prior to the effective date of the proposed action.

(B) The applicant or [client] individual may appeal the decision, in writing or verbally, to the facility staff within thirty (30) days from the date of receiving the written notice.

1. If necessary, appropriate staff shall assist the applicant/[client]individual in making the appeal.

2. The applicant or [client] individual may present any information relevant to the appeal. The head of the facility or his/her designee shall meet with the applicant/[client]individual and any staff to attempt to resolve differences and receive information on the matter.

3. Within ten (10) working days after receiving the appeal, the head of the facility shall notify the applicant verbally, when possible, and in writing of his/her findings and decision and of the right to appeal, including notice of where and how to direct appeal.

(C) If the applicant/[client]individual disagrees with the decision of the head of the facility, the applicant/[client]individual, verbally or in writing, may notify the facility staff within thirty (30) days of the date of receipt of the decision that the applicant/[client]individual

wishes to present the case to an appeals referee. If the applicant/*[client]* **individual** verbally requests an appeal to the appeals referee, facility staff shall send the person a notice via registered or certified mail, return receipt requested, verifying that the applicant/*[client]* **individual** has verbally requested an appeal. The facility staff also shall forward the verification notice to the appeals referee.

1. The referee shall be an employee of the department. The referee shall hear all appeals.

2. The appeals referee shall notify the applicant or *[client verbally, when possible, and]* **individual** in writing of the date, time, and location of the hearing before the referee. Effective notice of the hearing shall be given at least thirty (30) days prior to the date of the hearing and shall contain a statement of the issues to be determined at the hearing. If any party has good cause for postponement or rescheduling, the request shall be granted. Absent good cause, the hearing shall be held no later than sixty (60) days from the date of the claimant's request for a hearing. The hearing shall be held at a location convenient for the *[client]* **individual**/applicant, usually the facility identified in the appeal.

3. The applicant/*[client]* **individual** shall have the right to representation either by an attorney or another advocate. Upon written notice that an individual is represented by an attorney/advocate, the attorney/advocate shall be provided with copies of notices, and the like. Upon request of the *[client]* **individual**/applicant or his/her attorney/advocate, copies of all documents relevant to the appeal shall be made available without charge within five (5) working days of the date of the request. An individual or his/her attorney/advocate shall have the right to inspect and copy all relevant Missouri DMH documents, including, but not necessarily limited to, department rules and applicant/*[client]* **individual** records if release is authorized in writing by the applicant/*[client]* **individual**, including third-party *[client]* **individual** records in the custody of the department that were utilized in making the decision on eligibility.

4. The appeals referee shall rest his/her decision solely on the evidence presented at the hearing. The referee shall not review any documents concerning the applicant's/*[client's]* **individual's** eligibility that are not properly submitted on the record during the hearing. The appeals referee, in addition, shall not discuss the applicant's/*[client's]* **individual** appeal with any party other than in the context of the hearing, questioning witnesses on the record, or both. The referee shall assure that the claimant receives a full and fair hearing. After the conclusion of the hearing, the referee shall issue a written decision, including findings of fact and conclusions of law, within thirty (30) days of the close of the hearing. The decision shall be mailed to the facility and to the claimant and his/her attorney/advocate, if any, by registered or certified mail, return receipt requested. Upon request of the claimant, facility staff may be consulted by the claimant for an explanation of the decision and its implications. The decision also shall contain a brief description of further appeal rights provided by this rule. Within thirty (30) days of the decision, the referee shall have the authority to vacate or amend his/her decision at the request of the claimant or his/her attorney/advocate or the head of the facility with notice to the others for good cause shown. *[Any additional evidence shall be considered in the request.]*

5. The head of the facility shall have the burden of proof and burden of going forward to either establish that either the applicant does not meet the state's statutory criteria for services eligibility or that the *[client]* **individual** has so improved that s/he no longer would benefit from the level of services which had been previously provided.

6. During the hearing, the applicant/*[client]* **individual** or the head of the facility shall have the right to speak on behalf of self, to present witnesses, to be represented by an attorney or other advocate, to submit any additional information and to cross-examine witnesses who have appeared on behalf of the facility.

A. If the applicant or *[client]* **individual** is represented by legal counsel, the claimant or his/her counsel shall notify the head of

the facility within ten (10) days from the date that counsel is retained for the hearing.

B. If the applicant or *[client]* **individual** is represented by legal counsel at the hearing, the head of the facility shall request representation from the attorney general's office. The request for representation should be made to the attorney general's office as soon as practicable. Notice to the applicant/*[client]* **individual** and attorney that the attorney general's office will appear in the case should be made at least five (5) days before the hearing.

7. Unless otherwise provided in this rule, the hearing shall be conducted by the provisions of Chapter 536, RSMo.

8. The referee shall electronically record the hearing. The *[tape]* **recording** of the hearing shall be kept for one (1) year after the date of the hearing. The *[tape, or a copy of the tape,]* **recording** shall be available to the *[client]* **individual**/applicant or his/her attorney/advocate or the regional *[center]* **office** director for purposes of review for further appeal *[to the director of the DMH]*.

(D) [If an applicant or client disagrees with the decision of the referee, the applicant/client, his/her attorney or advocate may move to vacate or amend the decision or appeal the decision to the director of the department within thirty (30) days from the receipt of the decision by mailing an intent to appeal to the director or by giving written notice to the facility. If the claimant gives verbal notice to the facility and needs assistance with an appeal, designated facility staff shall assist.]

1. *The evidence which was before the referee and the recording of the hearing shall be submitted to the department director. The applicant/client or his/her attorney/advocate and the head of the facility may submit newly discovered evidence to the department director and comments on and objections to the decision of the referee within ten (10) working days of the notice of appeal to the director.*

2. *The department director shall consider the evidence in paragraph (3)(D)1. and make the decision based solely on this evidence.*

3. *The department director, within twenty (20) working days of the notice of appeal, shall notify, in writing, the applicant/client and his/her attorney/advocate, if any, and the head of the facility, of the decision. The decision of the director is final. The decision shall be mailed to the head of the facility and to the claimant and his/her attorney/advocate, if any, by registered or certified mail, return receipt requested. Upon the request of the claimant, facility staff may be consulted by the claimant for an explanation of the decision and the mechanism for further appeal. The decision also shall contain a brief written description of further appeal rights provided by this rule.] Either party may appeal the decision of the appeals referee to circuit court as provided by Chapter 536, RSMo. For purposes of appeal, the recording of the hearing before the appeals referee shall be transcribed at the expense of the party appealing but shall be without cost to the applicant/individual who is indigent as determined by the department or the circuit court.*

(E) Pending an administrative appeal or appeal before circuit court if the [director's] appeals referee's decision is appealed, the department shall not reduce or terminate the applicant's or [client's] individual's services or benefits. No applicant's or [client's] individual's benefits or services shall be reduced or terminated until appeal procedures are exhausted.

(4) If [a client] an individual disagrees with the decision made by facility staff regarding eligibility for a specified service through the division, except referral for community placement from a department [mental retardation] developmental disability facility, the [client] individual may appeal the decision.

(A) The appeal may be presented orally or in writing to the appropriate supervisor within thirty (30) days from receipt of the oral or

written notice, whichever is earlier.

1. If necessary, the appropriate staff shall assist the [client] individual in making the appeal.

2. The [client] individual may present, and the supervisor shall accept and consider, any information relevant to the appeal. The supervisor may meet with the [client] individual and any staff to discuss and resolve differences.

3. Within ten (10) working days after receiving the information presented by the [client] individual, the supervisor shall notify the [client] individual in writing and verbally of the supervisor's finding and decision and the right of the [client] individual to appeal to the head of the facility.

(B) If the [client] individual disagrees with the decision of the supervisor, the [client] individual shall be entitled to utilize the same appeal procedures to the head of the facility, the appeals referee and the [department director] circuit court as provided in section (3) of this rule.

[(5) A client/applicant or his/her attorney/advocate may appeal the decision of the department director to circuit court as provided by Chapter 536, RSMo. For purposes of appeal, the tape of the hearing before the appeals referee shall be transcribed at the expense of the applicant/client but shall be without cost to the applicant/client who is indigent as determined by the department or the circuit court.]

AUTHORITY: section 630.050, RSMo [1994] Supp. 2011. This rule was previously filed as 9 CSR 50-3.705. Original rule filed April 17, 1987, effective Oct. 1, 1987. Amended: Filed Jan. 15, 1993, effective Aug. 8, 1993. Amended: Filed May 25, 1995, effective Dec. 30, 1995. Amended: Filed Feb. 1, 2012.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.060 Construction Permits Required. The commission proposes to amend subsections (1)(A), (8)(A), (9)(A), (9)(D), (11)(A), (11)(B), (11)(D), (12)(F), and (12)(H). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at

the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule defines sources which are required to obtain permits to construct. It establishes requirements to be met prior to construction or modification of any of these sources. This rule also establishes permit fees and public notice requirements for certain sources and incorporates a means for unifying the processing of construction and operating permit issuance. This amendment will defer for a period of three (3) years the application of the Prevention of Significant Deterioration (PSD) and Title V permitting requirements to carbon dioxide emissions from bioenergy and other biogenic stationary sources. The amendment will also finalize rule language on New Source Review provisions related to fine particulate matter (PM_{2.5}) that represent the final elements to implement a PM_{2.5} PSD program. This action will establish maximum allowable increases in ambient pollutant concentrations or increments, and two (2) screening tools known as the Significant Impacts Levels (SILs) and a Significant Monitoring Concentration (SMC) for PM_{2.5}. And finally, this action will reference new test methods for the measurement of filterable PM₁₀ and PM_{2.5} and the measurement of condensable PM emissions from stationary sources. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, are Federal Register Notices from May 16, 2008, October 20, 2010, December 21, 2010, and July 20, 2011.

(1) Applicability.

(A) Definitions. Definitions of certain terms used in this rule may be found in paragraph (b) of 40 CFR 52.21 which is incorporated by reference in subsection (8)(A) of this rule, except that—

1. Any provisions of 40 CFR 52.21(b) that are stayed shall not apply;

2. Solely for the purposes of paragraph (1)(A)2. and section (7) of this rule, the following definitions shall be used in place of the definitions of the same terms specified elsewhere in this subsection:

A. Major stationary source is defined in 40 CFR 51.165(a)(1)(iv), [promulgated as of July 1, 2007, including the revision published at 72 FR 24077 (effective July 2, 2007)] published July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions. The term major, as used in this definition, shall be major for the nonattainment pollutant;

B. Major modification is defined in 40 CFR 51.165(a)(1)(v), [promulgated as of July 1, 2007] published July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, except that any incorporated provisions that are stayed shall not apply. This rule does not incorporate any subsequent amendments or additions. The term major, as used in this definition, shall be major for the nonattainment pollutant;

C. Net emissions increase is defined in 40 CFR 51.165(a)(1)(vi), [promulgated as of July 1, 2007] published July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, except that the term paragraph (a)(1)(xii)(B) shall be 40 CFR 52.21(b)(21)(ii). This rule does not incorporate any subsequent amendments or additions; and

D. Significant is defined in 40 CFR 51.165(a)(1)(x), [promulgated as of July 1, 2007] published July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does

not incorporate any subsequent amendments or additions;

3. Solely for the purposes of section (9) of this rule, the following definitions shall be used in addition to definitions specified elsewhere in this subsection:

A. Construct a major source—

(I) Fabricate, erect, or install, at any greenfield site, a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit ten (10) tons per year of any hazardous air pollutant (HAP) or twenty-five (25) tons per year of any combination of HAPs; or

(II) Fabricate, erect, or install, at any developed site, a new process or production unit which in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs;

B. Greenfield site—A contiguous area under common control that is an undeveloped site;

C. Process or production—Any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one (1) process or production unit;

D. Reconstruct a major source—Replace components at an existing process or production unit where the replacement of components in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs, whenever—

(I) The fixed capital cost of the new components exceeds fifty percent (50%) of the fixed capital cost that would be required to construct a comparable process or production unit; and

(II) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this section;

E. Research and development activities—Activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically-trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a *de minimis* manner;

F. Similar source—A stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology; and

G. Definitions for certain terms, other than those defined in subparagraphs (1)(A)3.A. through F. of this rule, may be found in 40 CFR 63.41 [*promulgated as of January 1, 2007*] published **July 1, 2011**, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

4. Nonattainment pollutant—Each and every pollutant for which the location of the source is in an area designated to be in nonattainment of a National Ambient Air Quality Standard (NAAQS) under section 107(d)(1)(A)(i) of the Act. Any constituent or precursor of a nonattainment pollutant shall be a nonattainment pollutant, provided that the constituent or precursor pollutant may only be regulated under this rule as part of regulation of the corresponding NAAQS pollutant. Both volatile organic compounds (VOC) and nitrogen oxides (NO_x) shall be nonattainment pollutants for a source located in an area designated nonattainment for ozone;

5. The provisions of subsection (8)(B) of this rule regarding the term administrator shall apply; and

6. Definitions for certain terms used in this rule, other than those defined elsewhere in this subsection, may be found in 10 CSR 10-6.020.

(8) Attainment and Unclassified Area Permits.

(A) All of the subsections of 40 CFR 52.21, other than (a) Plan disapproval, (q) Public participation, (s) Environmental impact statements, and (u) Delegation of authority, [*promulgated as of July 1, 2009, including the revision published at 75 FR 31606-07 (effective August 2, 2010),*] published **July 1, 2011**, and **Federal Register Notice 76 FR 43507 promulgated July 20, 2011**, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

(9) Hazardous Air Pollutant Permits. The requirements of this section apply to any owner or operator of a major source identified in subsection (9)(B) of this rule, unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h), or section 112(j) of the Clean Air Act and incorporated in another subpart of part 63 of the *Code of Federal Regulations* (CFR), or the owner or operator of such a major source has received all necessary air quality permits for construction or reconstruction before the effective date of this section.

(A) Applicability. No person may construct or reconstruct a major source unless they submit an application and receive approval from the permitting authority according to the procedures of paragraphs (9)(C)2. and (9)(C)3. of this rule; or unless all of the following are satisfied:

1. All HAPs emitted by the process or production unit that would otherwise be controlled under the requirements of this section will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

2. The permitting authority—

A. Has determined within a period of five (5) years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR [*part*] 51 or 52, toxic-best available control technology (T-BACT), or maximum achievable control technology (MACT) based on state air toxic rules for the category of pollutants which includes those HAPs to be emitted by the process or production unit; or

B. Determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or state air toxic rule MACT determination);

3. The permitting authority determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

4. The permitting authority has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (9)(A)1., 2., and 3. of this rule apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or state air toxic rule MACT determination;

5. If any commenter has asserted that a prior LAER, BACT, T-BACT, or state air toxic rule MACT determination is no longer adequate, the permitting authority has determined that the level of control required by that prior determination remains adequate;

6. The requirements of section (6) of this rule are met; and

7. Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the permitting authority are predicated will be construed by the permitting authority as applicable requirements under section 504(a) of the Clean Air Act and either have been incorporated into any existing [*P*]part 70 permit for the affected facility or will be incorporated into such permit upon issuance.

(D) Requirements for constructed or reconstructed major sources subject to a subsequently promulgated standard or MACT requirement.

1. If an emission standard is promulgated under section 112(d) or section 112(h) of the Clean Air Act or the state issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this section before the date that the owner or operator has obtained a final and legally-effective MACT determination under any of the review options available in this rule, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under this section by the state, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

2. If an emission standard is promulgated under section 112(d) or section 112(h) of the Clean Air Act or the state issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this section and has been subject to a prior case-by-case MACT determination pursuant to this section, and the owner or operator obtained a final and legally-effective case-by-case MACT determination prior to the promulgated date of such emission standard, then the state shall (if the initial part 70 permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial part 70 permit has been issued) revise the operating permit according to the reopening procedures in 40 CFR [part] 70 or [part] 71, whichever is relevant, to incorporate the emission standard or determination.

A. The EPA may include in the emission standard established under section 112(d) or section 112(h) of the Clean Air Act a specific compliance date for those sources which have obtained a final and legally-effective MACT determination under this section and which have submitted the information required by this section to the EPA before the close of the public comment period for the standard established under section 112(d) of the Clean Air Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but no longer than eight (8) years after such standard is promulgated. In that event, the state shall incorporate the applicable compliance date in the part 70 operating permit.

B. If no compliance date has been established in the promulgated section 112(d) or 112(h) standard or section 112(j) determination, for those sources which have obtained a final and legally-effective MACT determination under this section, then the permitting authority shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than eight (8) years after such standard is promulgated or a section 112(j) determination is made.

3. Notwithstanding the requirements of paragraphs (9)(D)1. and 2. of this rule, if an emission standard is promulgated under section 112(d) or section 112(h) of the Clean Air Act or the state issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this section and which is the subject of a prior case-by-case MACT determination pursuant to this section, and the level of control required by the emission standard issued under section 112(d) or section 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the state is not required to incorporate any less stringent terms of the promulgated standard in the part 70 operating permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such operating permit.

(11) Tables.

(A) Table 1—Ambient Air Increment Table.

Pollutant	Maximum Allowable Increase
Class I Areas	
Particulate Matter 2.5 Micron:	
Annual arithmetic mean	1
24-hour maximum	2
Particulate Matter 10 Micron:	
Annual arithmetic mean	4
24-hour maximum	8
Sulfur Dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25
Nitrogen Dioxide:	
Annual arithmetic mean	2.5
Class II Areas	
Particulate Matter 2.5 Micron:	
Annual arithmetic mean	4
24-hour maximum	9
Particulate Matter 10 Micron:	
Annual arithmetic mean	17
24-hour maximum	30
Sulfur /d/Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
Nitrogen Dioxide:	
Annual arithmetic mean	25
Class III Areas	
Particulate Matter 2.5 Micron:	
Annual arithmetic mean	8
24-hour maximum	18
Particulate Matter 10 Micron:	
Annual arithmetic mean	34
24-hour maximum	60
Sulfur /d/Dioxide:	
Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700
Nitrogen Dioxide:	
Annual arithmetic mean	50

Notes:

1. All increases in micrograms per cubic meter. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) period once per year at any one (1) location.
2. There are two (2) Class I Areas in Missouri—one (1) in Taney County (Hercules Glade) and one (1) in Wayne and Stoddard Counties (Mingo Refuge).
3. There are no Class III Areas in Missouri at this time.

(B) Table 2—Significant Monitoring Concentrations.

Pollutant	Air Quality Impact
Carbon monoxide	575, 8-hour average
Nitrogen dioxide	14, annual
Particulate matter—	
2.5 micron (PM _{2.5})	4, 24-hour
Particulate matter—	
10 micron (PM ₁₀)	10, 24-hour
Sulfur dioxide	13, 24-hour
Ozone	*
Lead	.1, 3-month

Pollutant	Air Quality Impact
Mercury	0.25, 24-hour
Beryllium	.001, 24-hour
Fluorides	0.25, 24-hour
Vinyl chloride	15, 24-hour
Total reduced sulfur	10, 1-hour
Hydrogen sulfide	0.2, 1-hour
Reduced sulfur compounds	10, 1-hour

*Note: All impacts in micrograms per cubic meter.
No significant monitoring concentration is provided for ozone. However, any potential net increase of 100 tons per year, or more, of volatile organic compounds or nitrogen oxides subject to section (8) of this rule would require an ambient impact analysis, including the gathering of ambient air quality data.

(D) Table 4—Significant Levels for Air Quality Impact in Class II Areas.

Pollutant	Averaging Time (Hours)			
	Annual	24	8	3 1
SO ₂	1.0	5		25
PM ₁₀	1.0	5		
PM _{2.5}	0.3	1.2		
NO ₂	1.0			
CO			.5	2

Note: All impacts in micrograms per cubic meter, except for CO in milligrams per cubic meter.

(12) Appendices.

(F) Appendix F, Air Quality Models.

1. All estimates and analyses of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in the Environmental Protection Agency’s (EPA) *Guideline on Air Quality Models* (40 CFR [Part] 51, Appendix W) including supplements at the time of application.

2. Any model(s) designated in paragraph (12)(F)1. of this rule may be adjusted upon a determination by the administrator and the permitting authority, after notice and opportunity for public hearing, that the adjustment is necessary to take into account unique terrain or meteorological characteristics of an area potentially affected by emissions from the source. Methods like those outlined in the *Protocol for Determining the Best Performing Model* (United States EPA publication No. EPA-454/R-92-025, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, 1992) and *Standard Guide for Statistical Evaluation of Atmospheric Dispersion Model Performance* (NTIS No. PB 93-226082) should be used to determine the comparability of air quality models.

3. Where the *Guideline on Air Quality Models* (40 CFR [Part] 51, Appendix W) including supplements at the time of application does not address a situation requiring modeling, the administrator and the permitting authority, after notice and opportunity for public hearing, may approve the use of a model which they deem accurate for modeling that situation.

(H) Appendix H, Impacts on Class I Areas.

1. At any time prior to the close of the public comment period specified in subsection (12)(B) of this rule, the FLM for any federal Class I area may provide information to the permitting authority demonstrating that the emissions from the proposed installation or major modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I area, notwithstanding that the change in air quality, resulting from emissions from the installation or major modification, would not cause or contribute to concentrations which would exceed the maximum allowable increase for a Class I area, as specified in subsection

(11)(A), Table 1, of this rule. If the permitting authority concurs in the demonstration by the FLM, the permit shall be denied.

2. Class I variances. The owner or operator of a proposed installation or major modification may demonstrate to the FLM that the emissions from the source would have no adverse impact on the air quality-related values of any federal mandatory Class I area (including visibility), notwithstanding that the change in air quality resulting from emissions from the source would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the FLM concurs with a demonstration and so certifies to the permitting authority, the permitting authority, providing that all other applicable requirements of this rule are met, may issue the permit with those emission limitations as may be necessary to assure that emissions of sulfur dioxide, particulate matter, and nitrogen dioxide would not exceed the following maximum allowable increases over baseline concentration for these pollutants:

Pollutant	Maximum Allowable Increase
Particulate Matter 2.5 Micron:	
Annual arithmetic mean	4
24-hour maximum	9
Particulate Matter 10 Micron:	
Annual arithmetic mean	17
24-hour maximum	30
Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	325
Nitrogen Dioxide:	
Annual arithmetic mean	25

Note: Increases are in micrograms per cubic meter.

3. Sulfur dioxide variance by governor with FLM’s concurrence.

A. If the owner or operator of a proposed installation or major modification who has been denied an FLM’s certification pursuant to paragraph (12)(H)1. of this rule demonstrates to the governor that the installation or major modification cannot be constructed as a result of any maximum allowable increase for sulfur dioxide for periods of twenty-four (24) hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this part would not adversely affect the air quality-related values of the area (including visibility), then the governor, after consideration of the FLM’s recommendation (if any) and subject to his/her concurrence, may grant, after notice and an opportunity for a public hearing, a variance from these maximum allowable increases.

B. If a variance is granted, the permitting authority may issue a permit to an installation or major modification in accordance with the requirements of paragraph (12)(H)5. of this rule, provided that all other applicable requirements of this rule are met.

4. Variance by the governor with the president’s concurrence.

A. The recommendations of the governor and the FLM shall be transferred to the president in any case where the governor recommends a variance in which the FLM does not concur.

B. If this variance is approved by the president pursuant to 42 U.S.C./A. section 7475(d)(2)(D)(ii), the permitting authority may issue a permit in accordance with the requirements of paragraph (12)(H)5. of this rule provided that all other applicable requirements of this rule are met.

5. Emission limitations for presidential or gubernatorial variance.

A. In the case of a permit issued pursuant to paragraph (12)(H)3. or 4. of this rule, the permitting authority shall impose, as conditions of the permit, emission limitations as may be necessary to

assure that emissions of sulfur dioxide from the installation or major modification (during any day on which the otherwise applicable maximum allowable increases are exceeded) will not cause or contribute to concentrations which will exceed the following maximum allowable increases over the baseline concentration:

**Maximum Allowable Increase
(micrograms per cubic meter)**

Period of Exposure	Terrain Areas	
	Low	High
24-hour maximum	36	62
3-hour	130	221

B. These emission limitations also shall assure that the emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period.

6. The permitting authority shall transmit to the administrator a copy of each permit application under this subsection (12)(H) of this rule and provide notice to the administrator of every action related to the consideration of a permit.

AUTHORITY: section 643.050, RSMo [2000] Supp. 2011. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 31, 2012.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., April 26, 2012. The public hearing will be held at the University Plaza, 333 John Q. Hammons Parkway, Iowa Meeting Room, Springfield, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., May 3, 2012. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprule-spn@dnr.mo.gov.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.065 Operating Permits. The commission proposes to amend subsection (2)(A), section (3), and subsection (6)(C). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at

the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule defines air contaminant sources which are required to obtain operating permits and establishes procedures for obtaining and complying with operating permits; it does not establish any air quality standards or guidelines. This amendment will defer for a period of three (3) years the application of the Prevention of Significant Deterioration (PSD) and Title V permitting requirements to carbon dioxide emissions from bioenergy and other biogenic stationary sources. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is a July 20, 2011, Federal Register Notice.

(2) Definitions.

(A) Part 70 installations—Installations to which the part 70 operating permit requirements of this rule apply, in accordance with the following criteria:

1. They emit or have the potential to emit, in the aggregate, ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, or twenty-five (25) tpy or more of any combination of these hazardous air pollutants or such lesser quantity as the administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not these units are in a contiguous area or under common control, to determine whether these units or stations are subject installations. For sources of radionuclides, the criteria shall be established by the administrator;

2. They emit or have the potential to emit one hundred (100) tpy or more of any air pollutant subject to regulation, including all fugitive air pollutants. The fugitive emissions of an installation shall not be considered unless the installation belongs to one (1) of the source categories listed in 10 CSR 10-6.020(3)(B), Table 2. Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act or a nationally-applicable regulation codified by the administrator in 40 CFR [Parts] 50-99, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity, except that—

A. Greenhouse gases (GHGs), the air pollutant defined as the aggregate group of six (6) greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit one hundred thousand (100,000) tpy carbon dioxide (CO₂) equivalent emissions; and

B. The term tpy CO₂ equivalent emissions (CO₂e) shall represent an amount of GHGs emitted and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six (6) greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 [to subpart A] of 40 CFR [Part] 98, Subpart A, promulgated as of October 30, 2009, and summing the resultant value for each to compute a tpy CO₂e. **For purposes of this rule, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animal, or micro-organisms (including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).** Table A-1 is hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700

Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

3. They are located in nonattainment areas or ozone transport regions.

A. For ozone nonattainment areas, sources with the potential to emit one hundred (100) tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate,” fifty (50) tpy or more in areas classified as “serious,” twenty-five (25) tpy or more in areas classified as “severe,” and ten (10) tpy or more in areas classified as “extreme”; except that the references in this paragraph to one hundred (100), fifty (50), twenty-five (25), and ten (10) tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

B. For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit fifty (50) tpy or more of volatile organic compounds;

C. For carbon monoxide nonattainment areas that are classified as “serious,” and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator, sources with the potential to emit fifty (50) tpy or more of carbon monoxide; and

D. For particulate matter less than ten (10) micrometers (PM₁₀) nonattainment areas classified as “serious,” sources with the potential to emit seventy (70) tpy or more of PM₁₀;

4. They are affected sources under Title IV of the 1990 Act;

5. They are solid waste incinerators subject to section 129(e) of the Act;

6. Any installation in a source category designated by the administrator as a part 70 source pursuant to 40 CFR 70.3; and

7. Installations that would be part 70 sources strictly due to the following criteria are not subject to part 70 source requirements until the administrator subjects this installation to these requirements by rule:

A. They are subject to a standard, limitation, or other requirement under section 111 of the Act, including area sources; or

B. They are subject to a standard or other requirement under section 112 of the Act, except that a source, including an area source, is not required to obtain a permit solely because it is subject to rules or requirements under section 112(r) of the Act.

(3) Single, Multiple, or General Permits.

(A) Pursuant to this section, an installation must have a permit (or group of permits) addressing all applicable requirements for all emissions units in the installation. An installation may comply with this subsection through any one (1) of the following methods:

1. The installation may apply for a single permit covering all emissions units located within a contiguous area under common control (whether or not the installation falls under the same two (2)-digit Standard Industrial Code (SIC));

2. The installation may apply for separate permits for separate emissions units or groups of emissions units; or

3. The installation may apply for coverage for one (1) or more emissions units eligible for permitting under a general permit issued by the permitting authority, and obtain a separate permit(s) for emissions units not eligible for general permit coverage.

4. When determining operating permit classification (part 70, intermediate or basic state), the installation shall calculate the potential to emit for the entire installation and all multiple permits shall be subject to the same operating permit classification.

/5./(B) Notwithstanding, if the installation is a basic installation and is subject to 40 CFR [part] 63, [s/Subpart] EEE, National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors, the installation has the option of obtaining a part 70 permit for the entire installation or a part 70 permit for the emission unit subject to the maximum achievable control technology (MACT) and a basic for the rest of the installation. However, the part

70 permit for the affected emission unit must incorporate all applicable requirements that apply to hazardous waste combustion devices, not just those in 40 CFR [part] 63, [s/Subpart] EEE.

(6) Part 70 Operating Permits.

(C) Permit Content.

1. Standard permit requirements. Every operating permit issued pursuant to this section (6) shall contain all requirements applicable to the installation at the time of issuance.

A. Emissions limitations and standards. The permit shall specify emissions limitations or standards applicable to the installation[,] and shall include those operational requirements or limitations as necessary to assure compliance with all applicable requirements.

(I) The permit shall specify and reference the origin of and authority for each term or condition and shall identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(II) The permit shall state that, where an applicable requirement is more stringent than an applicable requirement of rules promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the administrator.

(III) If the implementation plan or other applicable requirement allows an installation to comply through an alternative emissions limit or means of compliance and the applicant requests that this alternative limit or means of compliance be specified in the permit, the permitting authority may include this alternative emissions limit or means of compliance in an installation’s permit upon demonstrating that it is quantifiable, accountable, enforceable, and based on replicable procedures.

B. Permit duration. The permitting authority shall issue permits for five (5) years. The permit term shall commence on the date of issuance or, when applicable, the date of validation.

C. Monitoring and related record-keeping and reporting requirements.

(I) The permit shall contain the following requirements with respect to monitoring:

(a) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated by the administrator pursuant to sections 114(a)(3) or 504(b) of the Act;

(b) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), then periodic monitoring sufficient to yield reliable data for the relevant time period that are representative of the installation’s compliance with the permit, as reported pursuant to part (6)(C)1.C.(III) of this rule. These monitoring requirements shall assure the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Record-keeping provisions may be sufficient to meet the requirements of this paragraph; and

(c) As necessary, requirements concerning the use, maintenance, and where appropriate, installation of monitoring equipment or methods.

(II) With respect to record keeping, the permit shall incorporate all applicable record-keeping requirements and require, where applicable, the following:

(a) Records of required monitoring information that include the following:

I. The date, place as defined in the permit, and time of sampling or measurements;

II. The date(s) analyses were performed;

III. The company or entity that performed the analyses;

IV. The analytical techniques or methods used;

V. The results of these analyses; and

VI. The operating conditions as existing at the time of

sampling or measurement;

(b) Retention of records.

I. Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings when used for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

II. Affected sources under Title IV of the Act will have a three (3)-year monitoring data record retention period as required in 40 CFR [part] 75.

(III) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(a) A permit issued under these rules shall require the permittee to submit a report of any required monitoring every six (6) months. To the extent possible, the schedule for submission of these reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification;

(b) Each report submitted under subpart (6)(C)1.C.(III)(a) of this rule shall identify any deviations from permit requirement, since the previous report, that have been monitored by the monitoring systems required under the permit, and any deviations from the monitoring, record-keeping, and reporting requirements of the permit;

(c) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as indicated here. All reports of deviations shall identify the cause or probable cause of the deviations and any corrective actions or preventative measures taken.

I. Notice of any deviation resulting from an emergency (or upset) condition as defined in paragraph (6)(C)7. of this rule shall be submitted to the permitting authority either verbally or in writing within two (2) working days after the date on which the emission limitation is exceeded due to the emergency, if the permittee wishes to assert an affirmative defense. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that indicate an emergency occurred and the permittee can identify the cause(s) of the emergency. The permitted facility must show that it was operated properly at the time and that during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or requirements in the permit. The notice must contain a description of the emergency, steps taken to mitigate emissions, and the corrective actions taken.

II. Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as practicable.

III. Any other deviations identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit;

(d) Every report submitted shall be certified by a responsible official, except that, if a report of a deviation must be submitted within ten (10) days after the deviation, the report may be submitted without a certification if the report is resubmitted with an appropriate certification within ten (10) days after that, together with any corrected or supplemental information required concerning the deviation; and

(e) A permittee may request confidential treatment of information submitted in any report of deviation.

D. Risk management plans. If the installation is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit is required to specify only that the permittee will verify that they have complied with the requirement to register such a plan. The contents of the risk management plan itself need not be incorporated as a permit term.

E. Emissions exceeding Title IV allowances. Where applicable, the permit shall prohibit emissions exceeding any allowances that the installation lawfully holds under Title IV of the Act or rules promulgated thereunder.

(I) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program if the increases do not require a permit revision under any other applicable requirement.

(II) No limit shall be placed on the number of allowances that may be held by an installation. The installation may not use these allowances, however, as a defense for noncompliance with any other applicable requirement.

(III) Any of these allowances shall be accounted for according to procedures established in rules promulgated under Title IV of the Act.

F. Severability clause. The permit shall include a severability clause to ensure the continued validity of uncontested permit conditions in the event of a successful challenge to any contested portion of the permit.

G. General requirements.

(I) The permittee must comply with all the terms and conditions of the permit. Any noncompliance with a permit condition constitutes a violation and is grounds for enforcement action, for permit termination, permit revocation and reissuance, permit modification, or denial of a permit renewal application. Note: The grounds for termination of a permit under part (6)(C)1.G.(I) are the same as the grounds for revocation as stated in part (6)(E)8.A.(I).

(II) It shall not be a defense in an enforcement action that it would have been necessary for the permittee to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(III) The permit may be modified, revoked, reopened, reissued, or terminated for cause. Except as provided for minor permit modifications, the filing of an application or request for a permit modification, revocation and reissuance, or termination, or the filing of a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(IV) The permit does not convey any property rights of any sort, or grant any exclusive privilege.

(V) The permittee shall furnish to the permitting authority, upon receipt of a written request and within a reasonable time, any information that the permitting authority reasonably may require to determine whether cause exists for modifying, reopening, reissuing, or revoking the permit or to determine compliance with the permit. Upon request, the permittee also shall furnish to the permitting authority copies of records required to be kept by the permittee. The permittee may make a claim of confidentiality for any information or records submitted under this paragraph (6)(C)1.

H. Incentive programs not requiring permit revisions. The permit shall include a provision stating that no permit revision will be required for any installation changes made under any approved economic incentive, marketable permit, emissions trading, or other similar programs or processes provided for in the permit.

I. Reasonably anticipated operating scenarios. The permit shall include terms and conditions for reasonably anticipated operating scenarios identified by the applicant and approved by the permitting authority. The permit shall authorize the permittee to make changes among alternative operating scenarios authorized in the permit without notice, but shall require the permittee, contemporaneous with changing from one (1) operating scenario to another, to record in a log at the permitted installation the scenario under which it is operating. The permit shield shall apply to these terms and conditions.

J. Emissions trading. The permit shall include terms and conditions for the trading of emissions increases and decreases within the permitted installation to the extent that the applicable requirements provide for the trading of increases and decreases without case-by-case approval of each emissions trade. These terms and conditions shall

include all those required to determine compliance (to include contemporaneous recording in a log of the details of the trade) and must meet all applicable requirements, and requirements of this rule. The permit shield shall apply to all terms and conditions that allow the trading of these increases and decreases in emissions.

2. Federally-enforceable conditions and state-only requirements.

A. Federally-enforceable conditions. Except as provided in subparagraph (6)(C)2.B. of this rule, all terms and conditions in a permit issued under this section, including any voluntary provisions designed to limit an installation's potential to emit, are enforceable by the permitting authority, by the administrator, and by citizens under section 304 of the Act.

B. State-only requirements. Notwithstanding subparagraph (6)(C)2.A. of this rule, the permitting authority shall expressly designate as not being federally-enforceable or enforceable under section 304 of the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and these terms and conditions shall not be enforceable by the administrator or by citizens under section 304 of the Act. Terms and conditions so designated shall not be subject to the requirements of 40 CFR sections 70.7 and 70.8. Terms and conditions expressly designated as state-only requirements under this paragraph may be included in an addendum to the installation's permit.

3. Compliance requirements. Permits issued under this section (6) shall contain the elements listed here with respect to compliance.

A. General requirements, including certification. Consistent with the monitoring and related record-keeping and reporting requirements of this paragraph, the operating permit must include compliance certification, testing, monitoring, reporting, and record-keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required to be submitted under this rule shall contain a certification signed by a responsible official as to the results of the required monitoring.

B. Inspection and entry. The permit must include requirements providing that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the permitting authority to perform the following (subject to the permittee's right to seek confidential treatment of information submitted to, or obtained by, the permitting authority under this subsection):

(I) Enter upon the permittee's premises where a permitted installation is located or an emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(II) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(III) Inspect, at reasonable times and using reasonable safety practices, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(IV) As authorized by the Missouri Air Conservation Law Chapter 643, RSMo, or the Act, sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

C. Schedule of compliance. The permit must include a schedule of compliance, to the extent required.

D. Progress reports. To the extent required under an applicable schedule of compliance, the permit must require progress reports to be submitted semiannually, or more frequently if specified in the applicable requirement or by the permitting authority. These progress reports shall contain the following:

(I) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when these activities, milestones, or compliance were achieved; and

(II) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

E. Compliance certification. The permit must include requirements for certification of compliance with terms and conditions contained in the permit that are federally enforceable, including emissions limitations, standards, or work practices. The permit shall specify—

(I) The frequency (which shall be annually unless the applicable requirement specifies submission more frequently) of compliance certifications;

(II) The means for monitoring compliance with emissions limitations, standards, and work practices contained in applicable requirements;

(III) A requirement that the compliance certification include the following:

(a) The identification of each term or condition of the permit that is the basis of the certification;

(b) The permittee's current compliance status, as shown by monitoring data and other information reasonably available to the permittee;

(c) Whether compliance was continuous or intermittent;

(d) The method(s) used for determining the compliance status of the installation, currently and over the reporting period; and

(e) Such other facts as the permitting authority may require to determine the compliance status of the source;

(IV) A requirement that all compliance certifications be submitted to the administrator as well as to the permitting authority;

(V) Additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act; and

(VI) Any other provisions as the permitting authority may require.

4. General permits. Installations may apply to operate under any general permit.

A. Issuance of general permits. General permits covering similar part 70 installations may be issued by the permitting authority after notice and opportunity for public participation under subsection (6)(F) and section (7). The general permit shall indicate a reasonable time after which an installation that has submitted an application for authorization will be deemed to be authorized to operate under the general permit. A general permit shall identify criteria by which installations may be authorized to operate under the general permit. This criteria must include the following:

(I) Categories of sources covered by the general permit must be homogeneous in terms of operations, processes, and emissions;

(II) Sources may not be subject to case-by-case standards or requirements; and

(III) Sources must be subject to substantially similar requirements governing operations, emissions, monitoring, reporting, and record keeping.

B. Applications. The permitting authority shall provide application forms for coverage under a general permit. General permit applications may deviate from individual part 70 permit applications but shall include all information necessary to determine qualification for, and to assure compliance with, the general permit. The permitting authority shall authorize coverage by the conditions and terms of a general permit to all installations that apply for and qualify under the specified general permit criteria. Installations applying for coverage under a general permit must comply with all the requirements of this rule, except public participation requirements. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in rule promulgated under Title IV of the Act.

C. Public participation. Although public participation under section (7) of this rule is necessary for the issuance of a general permit, the permitting authority may authorize an installation to operate under general permit terms and conditions without repeating the public participation procedures. However, this authorization shall not be a final permit action of purposes for judicial review.

D. Enforcement. Notwithstanding the permit shield provisions

of paragraph (6)(C)6. of this rule, an installation authorized to operate under a general permit is subject to enforcement for operating without an individual part 70 operating permit if the installation is determined not to be qualified for the general permit.

5. Portable installations. An installation may apply for a single permit authorizing emissions from similar operations by the same installation owner or operator at multiple temporary locations.

A. Qualification criteria. To qualify for a permit under this paragraph (6)(C)5. the applicant's operation must be temporary and involve at least one (1) change of location during the permit term. Affected sources shall not be authorized as temporary installations under the acid rain program unless otherwise provided in rules promulgated under Title IV of the Act.

B. Compliance at each location. The permittee must comply with all applicable requirements at each authorized location.

C. Notice of location change. The owner or operator of the installation must notify the permitting authority at least ten (10) days in advance of each change of location.

6. Permit shield.

A. Express permit statement required. Part 70 operating permits shall include express provisions stating that compliance with the conditions of the permit shall be deemed compliance with all applicable requirements as of the date of permit issuance, provided that—

(I) The applicable requirements are included and specifically identified in the permit; or

(II) The permitting authority, in acting on the permit revision or permit application, determines in writing that other requirements, as specifically identified in the permit, are not applicable to the installation and the permit expressly includes that determination or a concise summary of it.

B. Exceptions to permit protection. The permit shield does not affect the following:

(I) The provisions of section 303 of the Act or section 643.090, RSMo, concerning emergency orders;

(II) Liability for any violation of an applicable requirement which occurred prior to, or was existing at, the time of permit issuance;

(III) The applicable requirements of the acid rain program;

(IV) The administrator's authority to obtain information;

or

(V) Any other permit or extra-permit provisions, terms, or conditions expressly excluded from the permit shield provisions of this rule.

7. Emergency provisions.

A. Definition. For the purposes of a part 70 operating permit, an emergency or upset means any condition arising from sudden and not reasonably foreseeable events beyond the control of the permittee, including acts of God, which require immediate corrective action to restore normal operation and that causes the installation to exceed a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency or upset. An emergency or upset shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

B. Affirmative defense requirements. The permitting authority shall include in each permit a provision stating that an emergency or upset constitutes an affirmative defense to an enforcement action brought for noncompliance with technology-based emissions limitations. To establish an emergency- or upset-based defense, the permittee must demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, the following:

(I) An emergency or upset occurred and the permittee can identify the source of the emergency or upset;

(II) The installation was being operated properly;

(III) The permittee took all reasonable steps to minimize emissions that exceeded technology-based emissions limitations or the requirements in the permit; and

(IV) The permittee submitted notice of the emergency to

the permitting authority within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

8. Operational flexibility (installation changes not requiring permit revisions). An installation that has been issued a part 70 operating permit under this rule is not required to apply for or obtain a permit revision in order to make any of the changes to the permitted installation described in subparagraph (6)(C)8.A. of this rule if the changes are not Title I modification and the changes do not cause emissions to exceed emissions allowable under the permit, and the changes do not result in the emission of any air contaminant not previously emitted. The installation shall notify the permitting authority and the administrator at least seven (7) days in advance of these changes, except as allowed for emergency or upset conditions. Emissions allowable under the permit means a federally-enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally-enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

A. Section 502(b)(10) changes. Changes that, under section 502(b)(10) of the Act, contravene an express permit term may be made without a permit revision, except for changes that would violate applicable requirements of the Act or contravene federally-enforceable monitoring (including test methods), record-keeping, reporting, or compliance requirements of the permit.

(I) Before making a change under this provision, the permittee shall provide advance written notice to the permitting authority and to the administrator, describing the change to be made, the date on which the change will occur, any changes in emissions, and any permit terms and conditions that are affected. The permittee shall maintain a copy of the notice with the permit, and the permitting authority shall place a copy with the permit in the public file. Written notice shall be provided to the administrator and the permitting authority at least seven (7) days before the change is to be made. If less than seven (7) days' notice is provided because of a need to respond more quickly to these unanticipated conditions, the permittee shall provide notice to the administrator and the permitting authority as soon as possible after learning of the need to make the change.

(II) The permit shield shall not apply to these changes.

B. SIP-based emissions trading changes. Changes associated with trading emissions increases and decreases within a permitted installation may be made without a permit revision if the SIP provides for these trades. The permit shall contain terms and conditions governing the trading of emissions.

(I) For these changes, the advance written notice provided by the permittee shall identify the underlying authority authorizing the trade and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements with which the source will comply through emissions trading and any other information as may be required by the applicable requirement authorizing the emissions trade.

(II) The permit shield shall not apply to these changes. Compliance will be assessed according to the terms of the implementation plan authorizing the trade.

C. Emissions cap-based changes. Changes associated with the trading of emissions increases and decreases within a permitted installation may be made without a permit revision if this trading is solely for the purpose of complying with the federally-enforceable emissions cap that was established in the permit at the applicant's request, independent of otherwise applicable requirements. For these changes, the advance written notice provided by the permittee shall identify the underlying authority authorizing the emissions trade and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements with which the source will comply through emissions trading,

and any other information as may be required by the applicable requirement authorizing the emissions trade. The permit shield does apply to these changes.

9. Off-permit changes. Except as provided in subparagraph (6)(C)9.A. in this rule, a part 70 permitted installation may make any change in its permitted installation's operations, activities, or emissions that is not addressed in, constrained by, or prohibited by the permit without obtaining a permit revision. Insignificant activities listed in the permit, but not otherwise addressed in or prohibited by the permit, shall not be considered to be constrained by the permit for purposes of the off-permit provisions of this section. Off-permit changes shall be subject to the following requirements and restrictions:

A. Compliance with applicable requirements. The change must meet all applicable requirements of the Act and may not violate any existing permit term or condition; no permittee may change a permitted installation without a permit revision, even if the change is not addressed in or constrained by, the permit, if this change is subject to any requirements under Title IV of the Act or is a Title I modification;

B. Contemporaneous notice, except insignificant activities. The permittee must provide contemporaneous written notice of the change to the permitting authority and to the administrator. This notice shall not be required for changes that are insignificant activities under paragraph (6)(B)3. of this rule. This written notice shall describe each change, including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change.

C. Record of changes. The permittee shall keep a record describing all changes made at the installation that result in emissions of a regulated air pollutant subject to an applicable requirement and the emissions resulting from these changes; and

D. Permit shield not applicable. The permit shield shall not apply to these changes.

AUTHORITY: section 643.050, RSMo [2000] Supp. 2011. Original rule filed Sept. 2, 1993, effective May 9, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 31, 2012.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., April 26, 2012. The public hearing will be held at the University Plaza, 333 John Q. Hammons Parkway, Iowa Meeting Room, Springfield, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., May 3, 2012. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprule-spn@dnr.mo.gov.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.260 Restriction of Emission of Sulfur Compounds.

The commission proposes to delete subsections (1)(C) and (3)(B) and amend original subsections (1)(D), (1)(E), (3)(C), (3)(D), and (4)(A). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule establishes the maximum allowable concentration of sulfur compounds in source emissions and in the ambient air. This amendment removes a reference to 10 CSR 10-6.010 which includes outdated sulfur dioxide (SO₂) standards and removes the compliance dates of 1979 and 1982 that are no longer needed. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is an email dated May 17, 2011, from Boeing Company to Missouri Department of Natural Resources staff.

(1) Applicability.

[(C)] Subsection (3)(B) of this rule restricts sulfur dioxide (SO₂) concentrations in the ambient air.]

[(D)](C) Subsection [(3)(C)] (3)(B) of this rule restricts sulfur dioxide emissions from indirect heating sources greater than three hundred fifty thousand British thermal units (350,000 Btus) per hour actual heat input.

[(E)](D) Subsection [(3)(D)] (3)(C) of this rule shall apply to sulfur compound emissions from existing lead smelting and/or refining sources or related activities.

(3) General Provisions.

[(B)] Restriction of Concentration of Sulfur Compounds in the Ambient Air. In addition to the limitations specified in subsections (3)(A), (3)(C), and (3)(D) of this rule, no person shall cause or permit the emission of sulfur compounds from any source which causes or contributes to concentrations exceeding those specified in 10 CSR 10-6.010 Ambient Air Quality Standards. Except as may be specified elsewhere in this rule, the methods for measuring ambient sulfur compound concentrations are specified in 10 CSR 10-6.040.]

[(C)](B) Restriction of Emission of Sulfur Dioxide from Indirect Heating Sources.

1. Subsection [(3)(C)] (3)(B) of this rule applies to installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air or other indirect heating of liquids, gases, or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

2. Indirect heating sources located in Missouri, other than in Franklin, Jefferson, St. Louis, St. Charles Counties, or City of St. Louis.

A. No person shall cause or allow emissions of sulfur dioxide into the atmosphere from any indirect heating source in excess of eight pounds (8 lbs.) of sulfur dioxide per million Btus actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in Table I or subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

B. The following existing indirect heating sources listed in Table I shall limit their average sulfur emissions into the atmosphere to the allowable amount of sulfur dioxide per million Btus of actual heat input averaged on any consecutive three (3)-hour basis.

Table I

Facility	Averaging Time	Emission Rate per Unit (Pounds Sulfur Dioxide Per Million Btus)
Associated Electric Cooperative—New Madrid	3 hours	10.0
Associated Electric Cooperative—Thomas Hill	3 hours	8.0
Central Electric Power Cooperative—Chamois	3 hours	6.7
City Utilities—James River Plant*	24 hours	(Units 1–4) 1.5 (Unit 5) 2.0
Empire District Electric Company—Asbury Station	3 hours	12.0
Independence Power and Light—Blue Valley Station	3 hours	6.3
Trigen—Grand Ave. Plant	3 hours	7.1
Kansas City Power & Light—Hawthorn Plant**	30 day rolling	0.12
Kansas City Power & Light—Montrose Station	24 hours	3.9
Aquila—Sibley Plant	3 hours	9.0
Aquila—Lake Road Plant*	24 hours	(Boilers 1, 2, and 4) 0.0524 (Boiler 3) 0.0006 (Boiler 5) 1.3490 (Boiler 6)*** (Combustion Turbines 5, 6, and 7) 0.0511
University of Missouri—Columbia	3 hours	8.0

* Facility is subject to State Enforceable Agreement.

** Kansas City Power & Light—The SO₂ emission rate comes from the Prevention of Significant Deterioration permit for Unit 5A and is implemented in accordance with the terms of the permit.

*** Boiler 6 at the Lake Road Plant is limited to a 24-hour daily block average of 1,400 pounds of SO₂/hour.

C. Compliance with paragraph *[(3)(C)2.] (3)(B)2.* of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule.

D. Other methods approved by the staff director in advance may be used.

E. Owners or operators of sources and installations subject to paragraph *[(3)(C)2.] (3)(B)2.* of this rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

3. Indirect heating sources located in Franklin, Jefferson, St. Louis, St. Charles Counties, or City of St. Louis.

A. Restrictions applicable to installations with a capacity of two thousand (2,000) million or more Btus per hour.

(I) No person shall cause or permit the emission of sulfur dioxide to the atmosphere from any installation with a capacity of two thousand (2,000) million or more Btus per hour in an amount greater than two and three-tenths pounds (2.3 lbs.) of sulfur dioxide per million Btus of actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in part *[(3)(C)3.A. (III)] (3)(B)3.A.(II)* of this rule or is subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

(II) The following existing installations shall limit their sulfur dioxide emissions into the atmosphere from the combustion of any fuels to the allowable amount of sulfur dioxide per million Btus of actual heat input listed:

Facility	Emission Rate per Unit* (Pounds Sulfur Dioxide Per Million Btus)
Ameren UE—Labadie Plant	4.8
Ameren UE— Portage des Sioux Plant	4.8

*Daily average, 00:01 to 24:00

(III) Owners or operators of sources and installations subject to paragraph *[(3)(C)3.] (3)(B)3.* of this rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

(IV) Each source subject to limitations under subparagraph *[(3)(C)3.A.] (3)(B)3.A.* of this rule may emit sulfur dioxide at a rate not to exceed the allowable emission rate by more than twenty percent (20%) for not more than three (3) days in any one (1) month.

(V) Compliance with part *[(3)(C)3.A. (III)] (3)(B)3.A.(II)* of this rule shall be demonstrated by sulfur dioxide and either carbon dioxide or oxygen continuous monitoring devices, which devices, within ninety (90) days of the date part *[(3)(C)3.A. (III)] (3)(B)3.A.(II)* of this rule becomes effective *[(July 12, 1979) as to any source or before January 1, 1982, in the case of Ameren UE Company's Labadie Plant]*, shall be certified by the owner or operator to be installed and operational in accordance with Performance Specifications 2 and 3, 40 CFR part 60, Appendix B. The devices shall also be operated and maintained in accordance with the procedures and standards set out at 40 CFR 60.13(d) and (e)(2).

(VI) Reports shall be as specified in section (4) of this rule.

B. Restrictions applicable to installations with a capacity of less than two thousand (2,000) million Btus per hour.

(I) During the months of October, November, December, January, February, and March of every year, no person shall burn or permit the burning of any coal containing more than two percent (2%) sulfur or of any fuel oil containing more than two percent (2%) sulfur in any installation having a capacity of less than two thousand (2,000) million Btus per hour. Otherwise, no person shall burn or permit the burning of any coal or fuel oil containing more than four

percent (4%) sulfur in any installation having a capacity of less than two thousand (2,000) million Btus per hour.

(II) Part *[(3)(C)3.B. (II)] (3)(B)3.B.(I)* of this rule shall not apply to any installation if it can be shown that emissions of sulfur dioxide from the installation into the atmosphere will not exceed two and three-tenths (2.3) pounds per million Btus of heat input to the installation.

(III) Owners or operators of sources and installations subject to this section shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

C. Compliance with paragraph *[(3)(C)3.] (3)(B)3.* of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule.

D. Other methods approved by the staff director in advance may be used.

[(D)](C) Emission of Sulfur Dioxide from Existing Lead Smelters and Refineries.

1. Each of the following existing installations listed in Table II engaged in smelting and/or refining lead shall limit its sulfur dioxide emissions from the sources or stacks, as described, to the amount of sulfur dioxide set forth here.

Table II

Facility	Averaging Time	Emission Limitation
Doe Run Company, Lead Smelter and Refinery— Glover, Missouri Two stacks: Sinter machine off-gas stack Blast furnace baghouse stack	1 hour test repeated 3 times	20,000 pounds SO ₂ /hr 1,056 pounds SO ₂ /hr
Doe Run Company, Buick Smelter— Boss, Missouri	1 hour test repeated 3 times	8,650 pounds SO ₂ /hr
Doe Run Company, Herculaneum Smelter—Herculaneum, Missouri	Year end Annual for 2012	25,100 tons SO ₂ /year
	Year end Annual for 2014	16,350 tons SO ₂ /year
	Year end Annual for 2017	0 tons SO ₂ /year

2. Compliance with paragraph [(3)(D)1.] (3)(C)1. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule except that the source testing shall consist of averaging three (3) separate one (1)-hour tests using the applicable testing method. The Doe Run Company, Herculaneum Smelter, shall determine compliance using a continuous emission monitoring system.

3. Secondary lead smelting installations shall install, calibrate, maintain, and operate an SO₂ continuous emission monitoring system, for the purpose of demonstrating compliance status, relative to subsection (3)(A) of this rule.

A. Certification.

(I) The continuous emission monitoring systems shall be certified by the owner or operator in accordance with 40 CFR part 60 Appendix B, Performance Specification 2 and Section 60.13 as is pertinent to SO₂ continuous monitors as adopted by reference in 10 CSR 10-6.070.

(II) The span of the SO₂ continuous monitor shall be set at an SO₂ concentration of one-fifth percent (0.20%) by volume.

(III) For the purpose of the SO₂ continuous monitor performance evaluation, the reference method referred to under the Field Test for Accuracy in Performance Specification 2 shall be Reference Method 6, 10 CSR 10-6.030(6). For this method, the minimum sampling time is twenty (20) minutes and the minimum volume is 0.02 dry standard cubic meter (dscm) for each sample. Samples are taken at sixty (60)-minute intervals and each sample represents a one (1)-hour average.

B. Reports shall be as specified in section (4) of this rule.

4. Owners or operators of sources and installations subject to this section shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

(4) Reporting and Record Keeping.

(A) The owner or operator of each source subject to subparagraph [(3)(C)3.A.] (3)(B)3.A. and paragraph [(3)(D)3.] (3)(C)3. of this rule shall submit a written report of excess emissions for each calendar quarter to the director within thirty (30) days following the end of the quarter. Each report shall:—

1. Contain the magnitude of sulfur dioxide emissions as follows:

A. For sources subject to subparagraph [(3)(C)3.A.] (3)(B)3.A. of this rule, the magnitude shall be reported in pounds per million Btus of all daily (00:01 to 24:00) averages of sulfur dioxide emissions greater than the emission rate allowed by part [(3)(C)3.A.(III)] (3)(B)3.A.(II) of this rule; and

B. For sources subject to paragraph [(3)(D)3.] (3)(C)3. of this rule, the magnitude shall be reported in parts per million of each two (2)-hour arithmetic average of sulfur dioxide emissions greater than the emission rate allowed by subsection (3)(A) of this rule;

2. Identify each period during which the continuous monitoring system was inoperative, except for zero and span checks and the nature of repairs and adjustments performed to make the system operative; and

3. Contain a statement that no excess emissions occurred during the quarter, except as reported or during periods when the continuous monitoring system was inoperative. Data reduction and conversion procedures shall conform to the provisions of 40 CFR 60.13(h) and 60.45(e) and (f);

AUTHORITY: section 643.050, RSMo [2000] Supp. 2011. Original rule filed Jan. 19, 1996, effective Aug. 30, 1996. Amended: Filed Sept. 29, 2003, effective May 30, 2004. Amended: Filed June 26, 2007, effective Feb. 29, 2008. Amended: Filed Dec. 16, 2008, effective Sept. 30, 2009. Amended: Filed Jan. 31, 2012.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., April 26, 2012. The public hearing will be held at the University Plaza, 333 John Q. Hammons Parkway, Iowa Meeting Room, Springfield, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., May 3, 2012. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprule-sp@dnr.mo.gov.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

PROPOSED AMENDMENT

10 CSR 10-6.410 Emissions Banking and Trading. The commission proposes to amend section (2). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, www.dnr.mo.gov/regs/index.html.

PURPOSE: This rule provides a mechanism for companies to acquire offsets for economic development in accordance with section 643.220, RSMo. This amendment removes the reference to 10 CSR 10-6.010 in the definition of National Ambient Air Quality Standards. At the same time, other definitions now found in the general definitions rule are being proposed for removal. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is an email dated May 17, 2011, from Boeing Company to Missouri Department of Natural Resources staff.

(2) Definitions.

[(A) Account holder—Any person that chooses to participate in the program by generating, buying, selling or trading ERCs.]

[(B)](A) Activity level—The amount of activity at a source measured in terms of production, use, raw materials input, vehicle miles traveled, or other similar units that have a direct correlation with the economic output of the source and is not affected by changes in the emissions rate (i.e., mass per unit of activity).

[(C) Actual emissions—The actual rate of emissions of a pollutant from a source. Actual emissions as of a particular date shall equal the average rate, in mass per unit of time or mass per unit of activity, at which the unit actually emitted the pollutant during a two (2)-year period which precedes the particular date and which is representative of normal source operation at a particular time. A different time period may be used if that is more representative of normal source operation.

(D) Alternate authorized account representative—The alternate person who is authorized by the owners or operators of the unit to represent and legally bind each owner and

operator in matters pertaining to the Emissions Banking and Trading Program in place of the authorized account representative.

(E) Authorized account representative—The person who is authorized by the owners or operators of the unit to represent and legally bind each owner and operator in matters pertaining to the Emissions Banking and Trading Program.

(F) Emission reduction credit (ERC)—A certified emission reduction that is created by eliminating future emissions and expressed in tons per year. One (1) ERC is equal to one (1) ton per year. An ERC must be real, properly quantified, permanent and surplus.

(G) Emissions unit—Any part of a source or activity at a source that emits or would have the potential to emit criteria pollutants or their precursors.

(H) Generating activity—Any process modification that results in a permanent reduction in emissions.

(I) Generator source—Any source that generates an ERC.

(J) Maintenance area—Any area with a maintenance plan approved under section 175 of the Act.

(K) Maintenance plan—A revision to the applicable Missouri State Implementation Plan (SIP), meeting the requirements of section 175A of the Act.

(L) Modeling domain—A geographic area covered by an air quality model.

(M) National Ambient Air Quality Standards (NAAQS)—The standards defined by 10 CSR 10-6.010 Ambient Air Quality Standards.

(N) New Source Review (NSR)—The permitting requirements found in state rule 10 CSR 10-6.060 Construction Permits Required.

(O) Normal source operation—The average actual activity rate of a source necessary for determining the actual emissions rate for the two (2) years prior to the date necessary for determining actual emissions, unless some other time period is more representative of the operation of the source or otherwise approved by the staff director.

(P) Protocol—A replicable and workable method to estimate the mass of emissions reductions, or the amount of ERCs needed for compliance.

(Q) Quantifiable—The quantity of emission reductions can be measured or estimated by accurate and replicable techniques. These techniques shall be at least as accurate and replicable as the techniques accepted by the U.S. EPA, where accepted techniques exist.

(R) Shutdown—Rendering an installation or unit inoperable by physically removing, dismantling or otherwise disabling the installation or unit so that it could not be reactivated without obtaining a new permit in accordance with 10 CSR 10-6.060.

(S) Stationary source—Any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Act. Building, structure, facility or installation includes all pollutant emitting activities that are located on one or more contiguous or adjacent properties, and are under the common control of the same person (or persons under common control).

(T) U.S. EPA—The United States Environmental Protection Agency.

(U) User source—Any source that seeks to use ERCs to comply with an applicable emission reduction requirement.]

[(V)](B) Definitions of certain terms specified in this rule, other than those defined in this section, may be found in 10 CSR 10-6.020.

AUTHORITY: sections 643.050], RSMo 2000] and [section] 643.220, RSMo Supp. [2008] 2011. Original rule filed Aug. 2, 2002, effective April 30, 2003. Amended: Filed May 17, 2004, effective

Dec. 30, 2004. Amended: Filed Oct. 15, 2008, effective July 30, 2009. Amended: Filed Jan. 31, 2012.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., April 26, 2012. The public hearing will be held at the University Plaza, 333 John Q. Hammons Parkway, Iowa Meeting Room, Springfield, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., May 3, 2012. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprule-spn@dnr.mo.gov.

Due to the recent change in the meeting date for the Clean Water Commission from March 7 to March 9, 2012, the public hearing date, March 7, 2012, and end of public comment date, March 14, 2012, for the proposed rescission of 10 CSR 20-6.100 General Pretreatment Regulation and the proposed rule 10 CSR 20-6.100 General Pretreatment Regulation, as originally published in the December 15, 2011, *Missouri Register* (36 MoReg 2906-2919) are cancelled. This results in a new public hearing date and an extension of the public comment period. The public hearing is rescheduled for May 2, 2012, and the public comment period will end May 16, 2012. The proposed rescission and proposed rule, as published in the December 15, 2011, *Missouri Register*, are reprinted below with the new public hearing date and end of public comment date to give adequate notice of this change in dates.

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

PROPOSED RESCISSION

10 CSR 20-6.100 General Pretreatment Regulation. This rule set forth procedures to prevent the introduction of pollutants into publicly-owned treatment works which will interfere with the operation of publicly-owned treatment works, including interference with its use or disposal of municipal sludge, to prevent the introduction of pollutants into publicly-owned treatment works which will pass through the treatment works or otherwise be incompatible with these works, and to improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

PURPOSE: This rule is being rescinded so that a new proposed rule may replace it. Substantive federal changes to general pretreatment regulations require this rescission. A new proposed rule in place of this rescission will incorporate by reference the Environmental Protection Agency's federal regulation 40 CFR Part 403. The proposed rule for general pretreatment will allow for continued implementation and enforcement of the federal requirements under the current delegation agreement with the EPA.

AUTHORITY: section 644.041, RSMo 1994. Original rule filed Feb. 1, 1988, effective June 13, 1988. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Rescinded: Filed Nov. 9, 2011.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Walter Fett, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to Walter.Fett@dnr.mo.gov. Public comments must be received by May 16, 2012. The Missouri Clean Water Commission will hold a public hearing at 9:00 a.m., May 2, 2012, at the Lewis and Clark State Office Building, LaCharrette/ Nightingale Creek Conference Room, 1 East, 1101 Riverside Drive, Jefferson City, Missouri.

Due to the recent change in the meeting date for the Clean Water Commission from March 7 to March 9, 2012, the public hearing date, March 7, 2012, and end of public comment date, March 14, 2012, for the proposed rescission of 10 CSR 20-6.100 General Pretreatment Regulation and the proposed rule 10 CSR 20-6.100 General Pretreatment Regulation, as originally published in the December 15, 2011, *Missouri Register* (36 MoReg 2906-2919) are cancelled. This results in a new public hearing date and an extension of the public comment period. The public hearing is rescheduled for May 2, 2012, and the public comment period will end May 16, 2012. The proposed rescission and proposed rule, as published in the December 15, 2011, *Missouri Register*, are reprinted below with the new public hearing date and end of public comment date to give adequate notice of this change in dates.

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

PROPOSED RULE

10 CSR 20-6.100 General Pretreatment Regulation

PURPOSE: This rule sets forth procedures to prevent the introduction of pollutants into publicly-owned treatment works which will interfere with the operation of publicly-owned treatment works, including interference with its use or disposal of municipal sludge, to prevent the introduction of pollutants into publicly-owned treatment works which will pass through the treatment works or otherwise be incompatible with these works, and to improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

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

(1) The Environmental Protection Agency federal regulations, 40 CFR parts 403 through 471, inclusive, that are in effect as of January 1, 2011, herein incorporated by reference, are available by writing to the Office of the Federal Register and the National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954. This rule does not incorporate any subsequent amendments or additions. The substitution of terms set forth shall

apply in this rule in addition to any other modifications set forth in this rule.

(2) Provisions Incorporated.

(A) The provisions of the *General Pretreatment Regulations for Existing and New Sources of Pollution*, 40 CFR part 403, as in effect January 1, 2011, are hereby adopted and incorporated by reference subject to the additions, modifications, and substitutions set forth in 10 CSR 20-6.100(4) through (14).

(B) The provisions of the following rules, as in effect January 1, 2011, are hereby adopted and incorporated by reference. The rules in this list refer to only the rules that contain pretreatment standards or limitations for industrial facilities that discharge to the local publicly-owned treatment works.

40 CFR part 406 Grain Mills Point Source Category
40 CFR part 413 Electroplating Point Source Category
40 CFR part 414 Organic Chemicals, Plastics, and Synthetic Fibers
40 CFR part 415 Inorganic Chemicals Manufacturing Point Source Category
40 CFR part 417 Soap and Detergent Manufacturing Point Source Category
40 CFR part 418 Fertilizer Manufacturing Point Source Category
40 CFR part 419 Petroleum Refining Point Source Category
40 CFR part 420 Iron and Steel Manufacturing Point Source Category
40 CFR part 421 Nonferrous Metals Manufacturing Point Source Category
40 CFR part 423 Steam Electric Power Generating Point Source Category
40 CFR part 425 Leather Tanning and Finishing Point Source Category
40 CFR part 426 Glass Manufacturing Point Source Category
40 CFR part 428 Rubber Manufacturing Point Source Category
40 CFR part 429 Timber Products Processing Point Source Category
40 CFR part 430 The Pulp, Paper, and Paperboard Point Source Category
40 CFR part 433 Metal Finishing Point Source Category
40 CFR part 439 Pharmaceutical Manufacturing Point Source Category
40 CFR part 443 Effluent Limitations Guidelines for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources for the Paving And Roofing Materials (Tars and Asphalt) Point Source Category
40 CFR part 446 Paint Formulating Point Source Category
40 CFR part 447 Ink Formulating Point Source Category
40 CFR part 455 Pesticide Chemicals
40 CFR part 458 Carbon Black Manufacturing Point Source Category
40 CFR part 461 Battery Manufacturing Point Source Category
40 CFR part 464 Metal Molding and Casting Point Source Category
40 CFR part 465 Coil Coating Point Source Category
40 CFR part 466 Porcelain Enameling Point Source Category
40 CFR part 467 Aluminum Forming Point Source Category
40 CFR part 468 Copper Forming Point Source Category
40 CFR part 469 Electrical and Electronic Components Point Source Category
40 CFR part 471 Nonferrous Metals Forming and Metal Powders Point Source Category

Note: 40 CFR part 412 Concentrated Animal Feeding Operations (CAFO) Point Source Category has been adopted at 10 CSR 20-6.300(4)(C).

(3) Federal statutes and regulations that are cited in 40 CFR parts 403 through 471 that are not specifically adopted by reference shall be used as guidelines in interpreting the federal regulations in parts 403 through 471.

(4) The “director” as used in the provisions of the *Code of Federal Regulations* which are incorporated by reference, means the director of staff of the Missouri Clean Water Commission or that person’s delegated representative.

(5) In the provisions of 40 CFR part 403, for all occurrences of the citation to 40 CFR part 136, substitute the citation 10 CSR 20-7.015(9)(A).

(6) In lieu of 40 CFR section 403.4, the following shall apply:

(A) Local Law. The provisions of 10 CSR 20-6.100 shall not supersede any pretreatment requirements, including any standards or prohibitions established by any local law, as long as the local requirements are not less stringent than any set forth in the pretreatment requirements of 10 CSR 20-6.100 or other requirements or prohibitions established by the state or federal government.

(7) State Enforcement Actions. In lieu of 40 CFR section 403.5(e), the following shall apply:

(A) If, within thirty (30) days after notice of an interference or pass-through violation has been sent by the state to the publically-owned treatment works (POTW) and to persons or groups who have requested the notice, the POTW fails to commence appropriate enforcement action to correct the violation, the state may take appropriate enforcement action.

(8) Substitute “Missouri Clean Water Commission” for “Regional Administrator” in 40 CFR section 403.6(a)(5).

(9) Substitute “Missouri Clean Water Law, Chapter 644, Water Pollution, Powers and Duties of the Commission—rules, procedure. Section 644.026(13), RSMo,” for “section 402(b)(1)(C) of the Act” in 40 CFR 403.8(e).

(10) Substitute “the Missouri Hazardous Waste Management Law, Chapter 260, Environmental Control, sections 260.350 to 260.430 RSMo, and the Missouri Solid Waste Management Law, Chapter 260, Environmental Control, sections 260.200 to 260.345, RSMo.” for “subtitles C and D of the Resource Conservation and Recovery Act” in 40 CFR section 403.8(f)(2)(iii).

(11) Substitute “Missouri Department of Natural Resources” for the term “agency” in the 40 CFR section 403.16.

(12) Confidentiality.

(A) In lieu of 40 CFR section 403.14(a), the following shall apply:

1. Authorities. Any claim for confidentiality to the control authority must be in accordance with the Missouri Sunshine Law, Chapter 610, Governmental Bodies and Records, sections 610.010 through 610.028, RSMo, inclusive. If no claim is made at the time of submission, the control authority may make the information available to the public without further notice.

(B) In lieu of 40 CFR section 403.14(b), the following shall apply:

1. Effluent data. Information and data provided to the control authority pursuant to this part which is effluent data shall be available to the public without restriction.

(C) The provisions of 40 CFR section 403.14(c) are omitted.

(13) Pretreatment Authorization. Where the director is also the control authority, the director may issue a pretreatment authorization to a categorical industrial user which discharges industrial process wastewater to a POTW. This authorization will be used to set forth the conditions governing the user’s discharge to the POTW, where the POTW does not have an approved pretreatment program or the POTW has not issued discharge permits that meet the requirements set forth in 10 CSR 20-6.100(2) and (3).

(14) Judicial Relief.

(A) The director shall have authority to seek judicial relief pursuant to Missouri Clean Water Law, Chapter 644, Water Pollution, Unlawful acts prohibited—false statements and negligent acts prohibited—penalties—exception, section 644.076, RSMo, for noncompliance by industrial users when the POTW has failed to act or has acted to seek such relief but has sought judicial relief which the director finds to be insufficient. The procedures for notice to dischargers where the POTW is seeking ex parte temporary judicial injunctive relief will be governed by applicable state or federal law and not by this provision.

(B) The director shall have authority to seek judicial relief pursuant to the Missouri Clean Water Law, Chapter 644, Water Pollution, Unlawful acts prohibited—false statements and negligent acts prohibited—penalties—exception, section 644.076, RSMo, for noncompliance by industrial users where the director is the control authority.

AUTHORITY: section 644.041, RSMo 2000. Original rule filed Feb. 1, 1988, effective June 13, 1988. Amended Filed March 1, 1996, effective Nov. 30, 1996. Rescinded and readopted: Filed Nov. 9, 2011.

PUBLIC COST: This proposed rule requires a one-time cost of compliance by the Missouri Department of Natural Resources and the forty-three (43) cities or political subdivisions with pretreatment ordinances of one hundred fifteen thousand one hundred thirty-six dollars (\$115,136), in the aggregate, over a five- (5-) year period from 2013 through 2017. Cost savings to the cities occur after the adoption, implementation, and approval of the pretreatment ordinances.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate. The cost savings in this proposed rule will save private entities two hundred forty-eight thousand dollars (\$248,000) in the aggregate, over the life of the rule. Cost savings are realized by the affected private entities after the ordinances are implemented.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Walter Fett, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to Walter.Fett@dnr.mo.gov. Public comments must be received by May 16, 2012. The Missouri Clean Water Commission will hold a public hearing at 9:00 a.m., May 2, 2012, at the Lewis and Clark State Office Building, LaCharrette/Nightingale Creek Conference Room, 1 East, 1101 Riverside Drive, Jefferson City, Missouri.