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SALUS POPULI SUPREMA LEX ESTO

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

ROBIN CARNAHAN

SECRETARY OF STATE

MISSOURI REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at http://www.sos.mo.gov/adrules/pubsched.asp

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

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

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

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

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

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

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

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

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program

PROPOSED RULE

13 CSR 70-10.160 Public/Private Long-Term Care Services and Supports Partnership Supplemental Payment to Nursing Facilities

PURPOSE: This rule implements a supplemental payment program for qualifying private nursing facilities which enter into a Low Income and Needy Care Collaboration Agreement with public nursing facilities. The collaboration agreement establishes a partnership between the state, privately owned long-term care facilities, and entities administering publicly funded long-term care related services, such as county nursing homes.

(1) Effective for dates of service on or after April 1, 2012, supplemental payments will be made in each following calendar quarter from the Long-Term Support UPL Fund to qualifying private nursing facilities for services rendered during quarter on or after April 1, 2012. Maximum aggregate payments to all qualifying private nursing facilities shall not exceed the upper payment limit defined in 42 CFR 447.272 in each state fiscal year.

(A) Qualifying Criteria. To qualify for the supplemental payments, a private nursing facility must be enrolled in MO HealthNet and be affiliated with a state or local governmental entity through a Low Income and Needy Care Collaboration Agreement and signed a Certification of Nursing Facility Participation. The state or local governmental entity includes governmentally-supported nursing facilities.

1. A private nursing facility is defined as being owned and operated by a private entity.

2. A Low Income and Needy Care Collaboration Agreement is defined as an agreement between a private nursing facility and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

3. A Certification of Nursing Facility Participation is defined as a certification by the private nursing facility of their compliance with state and federal requirements for the program.

(B) Reimbursement Methodology. Qualifying private nursing facilities are eligible to receive supplemental payments for nursing facility services. Supplemental payments will be made in each following calendar quarter after April 1, 2012.

1. Annual payment distributions shall be limited to the aggregated difference between nursing facilities' Medicare equivalent payments as defined in the upper payment limit calculation and Medicaid payments the nursing facilities receive for covered services provided to Medicaid recipients.

2. The time period used in calculating paragraph (1)(B)1. will be the most recent state fiscal year for which data is available for the full fiscal year.

AUTHORITY: section 208.201, RSMo Supp. 2011. Original rule filed Feb. 15, 2012.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately $22,732,982 for SFY 2013.

PRIVATE COST: This proposed rule 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 rule with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. 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 of this notice in the ***Missouri Register****. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. Department Title: Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 10 - Nursing Home Program

Rule Number and Name:	13 CSR 70-10.160 Public/Private Long Term Care Services and Supports Partnership Supplemental Payment to Nursing Facilities.
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated cost for SFY 2013 - $22,732,982

III. WORKSHEET

IV. ASSUMPTIONS

For SFY 2013, cost report data was used and an estimate was developed using the cost centers most likely to have purchased/contracted services. An estimate was developed reducing the reported costs to account for non-contracted/purchased services, for counties that may choose not to participate, and for facilities that may not be good candidates because of care compliance related issues. State costs will be covered by voluntary Intergovernmental Transfers from public entities. The funds provided by the public entities are available due to costs avoided as a result of the Low Income and Needy Care Collaboration Agreement.

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

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

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

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2000, the commission amends a rule as follows:

10 CSR 20–6.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2011 (36 MoReg 1895–1908). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on the proposed amendment on November 2, 2011. The public comment period ended on November 16, 2011. At the public hearing the department explained the proposed amendment. Comments were received by letter and during public testimony. Those who commented on hydrant flushing in paragraph (1)(B)7. and continuing authorities during the public comment period, including those who provided testimony at the hearing, expressed concerns that the full impact of the changes in subsections (3)(A) and (B) were not considered. As a result of comments received and testimony given, the department is withdrawing the proposed rule changes associated with these two (2) issues. Comments received during public testimony, regarding the additional language proposed to paragraph (1)(B)9. for pesticide applications, was supportive. The following comments were made during the public comment period:

COMMENT #1: Mary West-Calcagno, Jacobs Engineering; Phil Walsack, Missouri Public Utility Alliance; Bob Fuerman, Missouri American Water Company; and Thomas Rothermich, City of St. Louis, Water Division stated that the proposed changes at paragraph (1)(B)7. regarding hydrant flushing are ambiguous and that department has not fully considered the potential burdens of this proposed amendment on stakeholders. These proposed changes were not discussed with stakeholders before filing the amendment.
RESPONSE AND EXPLANATION OF CHANGE: The proposed revisions to paragraph (1)(B)7. are withdrawn. The department may consider proposing an amendment following future discussions with stakeholders.

COMMENT #2: Robert Fuerman, Missouri American Water Company commented that all regulation of potable water systems should be handled through the state's regulatory authority over public drinking water systems, i.e. the Public Drinking Water Branch of the Water Protection Program.
RESPONSE AND EXPLANATION OF CHANGE: This comment was made relative to the proposed revisions to paragraph (1)(B)7. which have been withdrawn. The department may consider proposing a future amendment following discussions with stakeholders.

COMMENT #3: Robert Fuerman, Missouri American Water Company and Thomas Rothermich, City of St. Louis, Water Division thought a better fiscal analysis was needed of the potential costs associated with the proposed language in paragraph (1)(B)7. regarding hydrant flushing. They stated that significant increases in costs might occur from the need to acquire new equipment and the use of dechlorination chemicals.
RESPONSE AND EXPLANATION OF CHANGE: A change was made as a result of this comment. The proposed revisions to paragraph (1)(B)7. are withdrawn. The department may consider proposing a future amendment following discussions with stakeholders.

COMMENT #4: Robert Fuerman, Missouri American Water Company pointed out that the proposed amendment references only publicly-owned systems and hoped that the proposed amendment would not apply to investor-owned systems.
RESPONSE AND EXPLANATION OF CHANGE: A change was made as a result of this comment. This comment was made relative to the proposed revisions to paragraph (1)(B)7. which have been withdrawn. The department may consider proposing a future amendment following discussions with stakeholders.

COMMENT #5: Kevin Perry, REGFORM and Robert Brundage, Missouri Agribusiness Association commented with regard to the changes proposed to paragraph (1)(B)9. affecting the exemption for pesticide applications. A general hope was expressed that a new ruling at the federal level would make the changes proposed by the department unnecessary.
RESPONSE: No changes were made as a result of this comment. If further changes are made at the federal level regarding the need for obtaining a permit on pesticide applications or regarding the terms and conditions necessary in a permit, the department will follow with additional rulemaking and permit development to bring the state rules into consistency with those changes.

COMMENT #6: Mary West-Calcagno, Jacobs Engineering stated that the proposed paragraph (3)(A)5. of the rule may have inadvertently removed an important provision in the overall rule. Specifically, the comment alleges that the proposed change eliminates a requirement that the applicant obtain a waiver of preferential status from each higher preference authorities.
RESPONSE AND EXPLANATION OF CHANGE: The proposed

revisions to paragraph (3)(A)5. are withdrawn, including the entire continuing authorities sections as proposed under subsections (3)(A) and (B). The department may consider proposing a future amendment following discussions with stakeholders.

COMMENT #7: Mary West-Calcagno, Jacobs Engineering and Phil Walsack, Missouri Public Utility Alliance urged the department to withdraw the proposed change to paragraph (3)(B)4. and hold meetings with stakeholders regarding what was proposed. The comment cites unknown costs, reversal of regionalization, and the lack (or timing) of the Clean Water Commission's approval of regional plans as possible topics needing further discussion.
RESPONSE AND EXPLANATION OF CHANGE: The proposed revisions to paragraph (3)(B)4. are withdrawn as well as the entire continuing authorities sections as proposed under subsections (3)(A) and (B). The department may consider proposing a future amendment following discussions with stakeholders.

COMMENT #8: Mary West-Calcagno, Jacobs Engineering and Phil Walsack, Missouri Public Utility Alliance stated that the five (5) conditions proposed in paragraph (3)(B)6. which allow the use of lower preference continuing authorities might interfere with (or significantly influence) the ongoing plans for building new infrastructure or for promoting community growth. Specifically, the commenter stated the conditions may allow a sewer entity who is already expected to connect to a regional facility to opt out of the connection (when one of the proposed conditions are met) and therefore disrupt the plans of the regional authority. The comment further explains that such disruptions may make it difficult for regional planners (including sewer districts) to affect or predict the scope and pace of community development.
RESPONSE AND EXPLANATION OF CHANGE: The proposed revisions to paragraph (3)(B)6. are withdrawn as well as the entire continuing authorities sections as proposed under subsections (3)(A) and (B). The department may consider proposing a future amendment following discussions with stakeholders.

COMMENT #9: Mary West-Calcagno, Jacobs Engineering and Phil Walsack, Missouri Public Utility Alliance stated that the numeric thresholds contained within the conditions proposed in paragraph (3)(B)6. are arbitrary and have not been vetted with stakeholders.
RESPONSE AND EXPLANATION OF CHANGE: The proposed revisions to paragraph (3)(B)6. are withdrawn as well as the entire continuing authorities sections under subsections (3)(A) and (B). The department may consider proposing a future amendment following discussions with stakeholders.

COMMENT #10: The department received comments from Mary West-Calcagno, Jacobs Engineering and Phil Walsack, Missouri Public Utility Alliance requesting or questioning the need for a better fiscal analysis of the potential costs associated with the proposed language in paragraph (3)(B)6. regarding the proposed conditions for waiving higher preference continuing authorities. The comment mentions case law that might prohibit a municipality's use of a lower authority when a sewer district does not release the developing property from its service area. The comment states that unintended fiscal impacts might result unless this matter is addressed by the rule.
RESPONSE AND EXPLANATION OF CHANGE: The proposed revisions to paragraph (3)(B)6. are withdrawn, including the entire continuing authorities sections as proposed under subsections (3)(A) and (B). The department may consider proposing a future amendment following discussions with stakeholders.

COMMENT #11: Mary West-Calcagno, Jacobs Engineering and Phil Walsack, Missouri Public Utility Alliance stated that the proposed rulemaking should apply only to the changes necessary to make the rules consistent with federal changes affecting the exemption of permits for pesticide application.
RESPONSE AND EXPLANATION OF CHANGE: The department has withdrawn all proposed revisions, namely, subsections (3)(A) and (B), except paragraph (1)(B)9. where the additional language as proposed makes the rule consistent with federal changes affecting the exemption of permits for pesticide application.

10 CSR 20-6.010 Construction and Operating Permits

(1) Permits—General.

(B) The following are exempt from permit regulations:

1. Nonpoint source discharges;

2. Service connections to wastewater sewer systems;

3. Internal plumbing and piping or other water diversion or retention structures within a manufacturing or industrial plant or mine, which are an integral part of the industrial or manufacturing process or building or mining operation. An operating permit or general permit shall be required, if the piping, plumbing, or structures result in a discharge to waters of the state;

4. Routine maintenance or repairs of any existing sewer system, wastewater treatment facility, or other water contaminant or point source;

5. Single family residences;

6. The discharge of water from an environmental emergency cleanup site under the direction of, or the direct control of, the Missouri Department of Natural Resources or the Environmental Protection Agency (EPA), provided the discharge shall not violate any condition of 10 CSR 20-7.031 Water Quality Standards;

7. Water used in constructing and maintaining a drinking water well and distribution system for public and private use, geologic test holes, exploration drill holes, groundwater monitoring wells, and heat pump wells;

8. Small scale pilot projects or demonstration projects for beneficial use, that do not exceed a period of one (1) year, may be exempted by written project approval from the permitting authority. The department may extend the permit exemption for up to one (1) additional year. A permit application shall be submitted at least ninety (90) days prior to the end of the demonstration period if the facility intends to continue operation, unless otherwise exempted under this rule or Chapter 6; and

9. The application of pesticides in order to control pests (e.g., any insect, rodent, nematode, fungus, weed, etc.) in a manner that is consistent with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Missouri Pesticide Use Act unless such application is made directly into or onto waters of the state, in which case the applicator shall obtain a permit.

(3) Continuing Authorities.

(A) All applicants for construction permits or operating permits shall show, as part of their application, that a permanent organization exists which will serve as the continuing authority for the operation, maintenance, and modernization of the facility for which the application is made. Construction and first-time operating permits shall not be issued unless the applicant provides such proof to the department and the continuing authority has submitted a statement indicating acceptance of the facility.

(B) Continuing authorities which can be issued permits to collect and/or treat wastewater under this regulation are listed in preferential order in the following paragraphs. An applicant may utilize a lower preference continuing authority by submitting, as part of the application, a statement waiving preferential status from each existing higher preference authority, providing the waiver does not conflict with any area-wide management plan approved under section 208 of the Federal Clean Water Act or any other regional sewage service and treatment plan approved for the higher preference authority by the department:

1. A municipality or public sewer district which has been designated as the area-wide management authority under section 208(c)(1) of the Federal Clean Water Act;

2. A municipality, public sewer district, or sewer company regulated by the Public Service Commission (PSC) which currently provides sewage collection and/or treatment services on a regional or watershed basis as outlined in 10 CSR 20-6.010(3)(C) and approved by the Clean Water Commission. Permits shall not be issued to a continuing authority regulated by the PSC until the authority has obtained a certificate of convenience and necessity from the PSC;

3. A municipality, public sewer district, or sewer company regulated by the PSC other than one which qualifies under paragraph (3)(B)1. or 2. of this rule or a public water supply district. Permits shall not be issued to a continuing authority regulated by the PSC until the authority has obtained a certificate of convenience and necessity from the PSC;

4. Any person with complete control of, and responsibility for, the water contaminant source, point source, or wastewater treatment facility and all property served by it. The person may constitute a continuing authority only by showing that the authorities listed under paragraphs (3)(B)1.–3. of this rule are not available, do not have jurisdiction, are forbidden by statute or ordinance from providing service to the person or, if available, have submitted written waivers as provided for in subsection (3)(B) of this rule; and

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

A. The authorities listed in paragraphs (3)(B)1.–3. of this rule are not available or that any available authorities have submitted written waivers as provided for in subsection (3)(B);

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

C. The document establishing the association imposes covenants on the land of each property owner which assures the proper operation, maintenance, and modernization of the facility including at a minimum:

(I) The power to regulate the use of the facility;

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

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

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

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

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

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 640.710 and 644.026, RSMo 2000, the commission amends a rule as follows:

10 CSR 20–6.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2011 (36 MoReg 1909–1926). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held November 2, 2011. The public comment period ended November 16, 2011. The Department of Natural Resources received three (3) comments on the proposed amendment at the public hearing and sixty-one (61) comments pertaining to the rule were received via email or letter.

COMMENT #1: Missouri Coalition for the Environment (MCE)—No rulemaking regarding Concentrated Animal Feeding Operations (CAFOs) should move forward until the public has been provided with accurate information on CAFOs in Missouri. It is impossible to make informed comments without information. Unfortunately, the only publicly available geographic information system (GIS) file on AFOs is inaccurate in terms of recording the functional capacity in animal units for all permitted CAFO operations in Missouri. The publicly available dataset on CAFOs has been modified to reflect operations that may have been shut down over violations, lawsuits, etc., but could very well be producing meat and polluting our waters despite the fact that this information has not been made accurately and fully available to the public. For example, of the one hundred fifty (150) operations found to be in the alluvial plane, one hundred one (101) operations show zero (0) in the column of PF_TOTALAU, despite the fact that these are in fact some of the largest operations in the state of Missouri. Without accurate information we cannot fully participate in the public notice process, and this file should be kept updated on a monthly basis and available to the public at all times. It is highly likely that many of the one hundred one (101) operations that report zero (0) animal units are currently in operation, but the data does not reflect this and has apparently not been updated in almost a year. It is impossible for the public to participate in this process without accurate information on the impacts purportedly being mitigated.

RESPONSE: No changes were made as a result of this comment. All information and data maintained by the department is public information and available for review in accordance with the Missouri Sunshine Law. To the extent possible and practical, the department strives to maintain permit data in a spatial GIS file form; however, given department resource constraints, it may not always be possible nor practical to maintain and update spatial data in the manner requested.

COMMENT #2: MCE—The department should explain why these operations cannot be required to meet the same consistent standards as a new operation would be held to, despite the fact that they are just as risky and dangerous to public health as new or expanded operations. One of the major reasons to get an National Pollution Discharge Elimination System (NPDES) permit is to use technology and improved methods to eliminate pollution in our waters. The permit renewal process is designed to allow for operations to be brought into compliance with current regulations. This is the regulatory process prescribed by the Clean Water Act (CWA), and although federal regulations may not always make sense, this process is perfectly reasonable and is necessary for us to gradually bring the extensive water pollution in Missouri under control and to give nature a chance to coincide with our social and economic goals.

RESPONSE: No changes were made as a result of this comment. The requirements in the proposed 10 CSR 20-8.300 rule will only apply to new and expanding CAFOs. EPA's New Source Performance Standard (NSPS) for CAFOs in 40 CFR 412 apply only to new sources and so too will the proposed 10 CSR 20-8.300 rule.

COMMENT #3: MCE—Definition of a "chronic weather event" is vague as it is not clear what ". . . the one-in-ten (1-in-10) year return rainfall frequency over a ten- (10-) day, one hundred twenty- (120-) day, and three hundred sixty-five- (365-) day operating period. . . " is. It is not clear whether one (1) in ten (10) means the maximum event, or perhaps average event. This definition should be improved by indicating how a "chronic weather event" is determined and its declaration is observed. This criticism also holds for paragraph (4)(A)5.

RESPONSE AND EXPLANATION OF CHANGE: The definition for "chronic weather event" has been changed by removing the first sentence. For clarification, the intensity of a storm can be predicted for any return period (i.e., one-in-ten (1-in-10) year) and storm duration (i.e., ten- (10-) day, ninety- (90-) day, one hundred eighty- (180-) day, and three hundred sixty-five- (365-) day) from historic data.

The term one-in-ten (1-in-10) year storm describes a rainfall event which is rare and is only likely to occur once every ten (10) years, so it has a ten percent (10%) likelihood of occurring any given year. This storm event(s) is defined as the Chronic Weather Event and this term is used later in this proposed rule.

COMMENT #4: MCE—The definition of "discharge or propose to discharge" contains the following exception: "Discharges of agricultural storm water are a non-point source and therefore not included within this definition." This exception is too expansive and unlawful because it could be interpreted as applying to land application discharges in storm water from fields where the application rate exceeded a rate that would ensure appropriate agricultural utilization or when the CAFO operator has not complied with best management practices (BMPs) during land application operations, or when the nutrient management plan used by the CAFO operator did not comply with the nutrient technical standards. Because the Missouri rules do not define precisely what is meant by "agricultural storm water," further uncertainty about land application discharges is introduced. Any such exception for allowable or unregulated discharge should itself be qualified by the CWA legislative exception language. The agricultural storm water exception should be amended to apply only when manure, litter, or process wastewater has been land-applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified in section 122.42(e)(1)(vi) through (ix). Without this qualifier, the proposed Missouri discharge definition does not comport with the federal law requirements for agricultural storm water exceptions from discharge.
RESPONSE: No changes were made as a result of this comment. However, please note that the term and the definition for "Discharge or propose to discharge" has been revised as a result of a later comment. For clarification, paragraph (2)(E)5. provides the clarity on what is meant by "agricultural storm water."

COMMENT #5: MCE—MDNR is altering "dry litter" to be "dry process waste." However, in making the changed definition, MDNR removed the final phrase of the dry litter definition ". . . and is not exposed to precipitation or storm water runoff during storage." Dry waste cannot be sustainable as dry if it is allowed to be exposed to precipitation. The problem with MDNR making a change like this is that it is sometimes unpredictable what the consequence will be elsewhere in the MDNR regulations. Outdoor management, transfer, and storage of solid CAFO waste will also be a problematic matter and create potential for discharge when large areas are exposed to precipitation which must then be stored for treatment and land application. The fundamental concern is that MDNR may transfer certain types of wastes, discharges, or conduct to be outside of CWA-originated regulatory jurisdiction, or authorize operator conduct that constitutes less than the required best management practice technology-based effluent limitations.
RESPONSE: No changes were made as a result of this comment. The definition at paragraph (1)(B)11. in the proposed amendment sufficiently defines this term for the purposes of this rule. The remaining portion of this comment is outside the scope of this rule, as it relates to issues that would be addressed in an operating permit.

COMMENT #6: MCE—MDNR is proposing to delete the present (1)(B)14. definition of "man-made conveyance—A device constructed by man and used for the purpose of transporting wastes, wastewater, or storm water into waters of the state. This includes, but is not limited to, ditches, pipes, gutters, emergency overflow structures, grass waterways, constructed wetland treatment systems, overland flow treatment systems, or similar systems. It also includes the improper land application so as to allow runoff of applied process wastewater during land application." If my recall is correct, there is federal CWA case law on the matter of "man-made conveyances." I do not presently know how this deletion would affect application of that case law. However, the present CAFO rule does not have a specific definition of what the word "discharge" means. The MDNR striking of the definition of the "man made conveyances" might potentially be interpreted by regulatory parties to mean that a discharge of aqueous CAFO waste and/or process wastewater must be proven to reach "waters of the U.S." even when an agricultural ditch or other conveyances is the pathway to "waters of the U.S." The striking amendment also erases the concept of "improper land application" that runs off. If an operator discharged to an agricultural ditch as a "man made conveyance," that operator might be tempted to deny there was a discharge to waters of the U.S. if the aqueous discharge did not actually achieve flowage to a blue line stream as shown on a topo map (i.e., dry ditch condition for extended distance to blue line stream).
RESPONSE: No changes were made as a result of this comment. The term "man-made conveyance" is a term that is not used anywhere in this proposed amendment and therefore does not require a definition.

COMMENT #7: MCE—No discharge provisions at paragraph (1)(B)15. describe "no discharge operation" and here again MDNR proposes an unqualified and thus over-broad exemption for agricultural storm water. In order to be Ag storm water, a CAFO owner/operation must have land-applied CAFO waste nutrients in compliance with a nutrient management plan that ensures appropriate agricultural utilization of applied nutrients. MDNR's exemption again is too broad.
RESPONSE: No changes were made as a result of this comment. Paragraph (2)(E)5. in the rule provides the clarity on what is meant by "agricultural storm water."

COMMENT #8: MCE—MDNR is proposing to strike the final sentence in EPA's definition of process wastewater in a manner that deregulates silage leachate and other aqueous wastes. This is objectionable. See my prior memorandum for a discussion of this issue.
RESPONSE AND EXPLANATION OF CHANGE: The definition of "process wastewater" has been edited to include animal production waste materials.

COMMENT #9: MCE—The definition of "production area" contains a qualifier saying that the "non-vegetated portions" of an operation . . . where CAFO waste activities are carried out . . . such a qualifier is improper because it means the presence of vegetation in a portion of a production area operation would then not be a portion of the production area under MDNR's qualified definition.
RESPONSE: No changes were made as a result of this comment. The definition is sufficiently clear in explaining the definition of "production area."

COMMENT #10: MCE—Defining "vegetated buffer"—saying they are a "narrow" strip of vegetation is too vague to consider this definition to be a part of a best management practice.
RESPONSE: No changes were made as a result of this comment. The definition is sufficiently clear in explaining the definition of "vegetative buffer." The application of a vegetated buffer is used later in the rule at (3)(G)2.E. which stipulates the buffer be thirty-five (35) feet wide.

COMMENT #11: MCE—The problem with the way this permit coverage rule is written is that it does not capture/cover requirements for permit amendments associated with CAFO NMP changes associated with new land application fields, fields newly requiring phosphorus-based planning, or fields which must no longer receive applications of CAFO waste because of excessive soil test phosphorus. Only alternations to production area physical elements seem to be covered. Such failure to consider land application-related permit modification changes can be viewed as undermining the Second Circuit

Waterkeeper decision requirements and EPA's subsequent year 2008 rulemaking.
RESPONSE: No changes were made as a result of this comment. Paragraph (3)(A)2. of the proposed amendment incorporated by reference the specific federal regulation that addresses the issue referenced in this comment.

COMMENT #12: MCE—The "in addition" clause in the second part of paragraph (2)(D)2. has the effect of improperly restricting the authority of MDNR to require smaller AFO production area facilities that discharge, or that have land application discharges, from being required to get discharge permits.
RESPONSE: No changes were made as a result of this comment. EPA and the department use non-permit strategies and tools to work with owners and operators of smaller AFOs to ensure that they do not meet the criteria that would result in their being defined or designated as small or medium CAFOs. For this reason, EPA regulation and this rule purposely affords a higher standard of permit applicability for smaller AFOs.

COMMENT #13: MCE—Because "small scale pilot projects" and "demonstration projects for beneficial use" are not defined and are not known as to their consequences for discharge, exemptions for these should not be allowed until there is further clarification of the impact of the section.
RESPONSE: No changes were made as a result of this comment. The proposed amendment affords a sufficient level of review by stipulating that written department approval must be acquired to implement a pilot project.

COMMENT #14: MCE—A comma is missing after the first phrase, "dry process waste" at paragraph (2)(E)2.
RESPONSE: No changes were made as a result of this comment.

COMMENT #15: MCE—The word "eight" should actually be "eighty" at paragraph (3)(A)4.
RESPONSE: No changes were made as a result of this comment. The word "eight" could not be found in the proposed amendment.

COMMENT #16: MCE—The proposed paragraph (3)(A)5. says an "engineering certification of the completed system shall be submitted prior to operating permit coverage," but there are no requirements provided for what the engineering certification must address. The rule should specify exactly what elements are required for such an engineering certification and one such requirement should be a statement by the engineer on whether the facility as constructed comports with the plans and specifications that were submitted for any construction permit application, and that the registered professional engineer states whether he has personal knowledge to support any such statements. This provision is written in a bizarre manner that reflects the tendency throughout to fail to identify who makes the decision and who specifically is bound by such a decision. Saying that "All construction permit applications shall require engineering documents . . . " is awkward. Instead, the rule should indicate what elements are required to be present in applications submitted by the proposed CAFO owner/operator.
RESPONSE: No changes were made as a result of this comment. The department could not find this quoted statement in the proposed amendment. The proposed amendment and other related provisions in 10 CSR 20-6 sufficiently address this concern.

COMMENT #17: MCE—This provision states—"The department will not examine the adequacy of efficiency of the structural or mechanical components of the waste management systems. The issuance of permits does not include approval of such features." Any practical inquiry into whether a CAFO owner/operator will comply with MDNR's rule is inextricably intertwined with the need to examine the structural or mechanical components of the CAFO waste management system. This seems to be a uniquely MDNR approach at abdicating its clean water regulatory authority over CAFO production area physical elements in a manner contrary to the purposes of the CWA.
RESPONSE: No changes were made as a result of this comment. This comment is outside the scope of this rulemaking.

COMMENT #18: MCE—At paragraph (3)(A)5. the clause, "unless specifically designed to handle them," should be struck in order to make the ban on disposal in wastewater systems enforceable. The only exception would be for an exterior composting operation whose physical features are inextricably intertwined with a leachate/runoff collection system.
RESPONSE: No changes were made as a result of this comment. The department recommends the proposed amendment language as written.

COMMENT #19: MCE—Adding the paragraph (3)(B)5. makes the preceding buffer requirements virtually meaningless. This paragraph contains no standards for decision making and provides no notice to the public or CAFO facility neighbors who would be affected by such a decision. Because there are no standards for decision making, MDNR decisions under this section may be arbitrary and capricious. The procedure for allowing less than required buffers contains no public participation or notice to the public.
RESPONSE: No changes were made as a result of this comment. This comment is outside the scope of this rulemaking. This is a statutory provision found in state law at 640.710, RSMo.

COMMENT #20: MCE—Subsection (3)(C) outlines notice and partial decision-making requirements for construction permit applications. MDNR envisions a required notice only to adjacent property owners, MDNR, and a county board, and this notice would be sent by the CAFO applicant. The notice would provide for a thirty- (30-) day comment period for MDNR to receive comments on the permit application. The thirty- (30-) day period would begin on the day that the CAFO applicant submittal was received by MDNR. However, there would be no notice to the public of the actual date when MDNR received the application, so the public would not have a notice with a deadline date for the comment period. There is no indication of any public comment or public notice being proposed for a draft construction permit or other notice.
RESPONSE: No changes were made as a result of this comment. This comment is outside the scope of this rulemaking. This is a statutory provision found in state law at 640.715, RSMo.

COMMENT #21: MCE—There is no requirement that land application equipment be subject to annual spreading rate calibration requirements. The weekly inspection requirement for process wastewater impoundments should be altered to ensure that facilities operating impoundments near their operating capacity or with little or no freeboard cannot use the weekly inspection frequency as a defense for failure to document overflow/discharge or operations of the lagoon in contradiction to CAFO owner/operator duties. The weekly inspection requirement for production area wastewater storage must also be amended to include physical inspections and the presence of any discharges, the physical condition of the impoundment, and maintenance of requirements prohibiting vegetative or animal intrusion to vegetated lagoon embankments. There is no requirement to install and operate a rain gage and to collect and record valid daily precipitation data. There is no requirement stated to conduct soil test every three (3) years for fields receiving CAFO waste. Nothing in this rule provision provides requirements to conduct inspections and monitoring shown for all such elements indicated in the Missouri CAFO Nutrient Management Technical Standard. For example, no requirement can be located that requires that field soil test information be made available in a permit application that contains an NMP. There is no requirement for a CAFO permittee to monitor and record the

date, weather conditions, type of applied waste, actual application rate in tons/gallons per acre, and total applied each day. This constitutes a serious deficiency in the proposed draft rules. Nothing here requires the CAFO owner/operator to inspect and monitor land spreading field tile water discharges to ensure that animal waste and process wastewater spread in fields is not discharged through field tile. MDNR has no technical standards that reflect BAT/BPT to control process wastewater intrusion into agricultural field tiles. Experience in the midwest suggests that limiting field application rates to no more than six thousand (6,000) gallons per acre will prevent most field tile discharge problems along with ensuring that waste applications are not made during times when field tiles are discharging water.

RESPONSE: No changes were made as a result of this comment. Many of these comments are outside the scope of this rulemaking as they request a level of specificity appropriate only for the operating permit itself. Other portions of this comment are addressed within the Missouri CAFO Nutrient Management Technical Standard (NMTS). The NMTS is incorporated by reference into the rule and must be followed when developing a Nutrient Management Plan in accordance with section (5) of the proposed amendment.

COMMENT #22: MCE—The land application record keeping at (3)(E)2. does not require record keeping and reporting the amount of waste applied to each field for each day of field application in tons per acre and gallons per acre and in total tons and gallons applied to each field for each day of application. There is no requirement to operate a rain gage and collect and record the data. The requirement to record weather conditions is not specific as to the weather factors to be noted. Weather and field condition tracking should address daily precipitation, high and low temperature, whether fields planned for imminent operational spreading are frozen, snow-covered, or saturated.

RESPONSE: No changes were made as a result of this comment. Many of these comments are outside the scope of this rulemaking as they request a level of specificity appropriate only for the operating permit itself. Other portions of this comment are addressed within the Missouri CAFO Nutrient Management Technical Standard (NMTS). The NMTS is incorporated by reference into the rule and must be followed when developing a Nutrient Management Plan in accordance with section (5) of the proposed amendment.

COMMENT #23: MCE—The annual report provision subsection (3)(F) does not require the owner/operator to certify compliance of the facility with its nutrient management plan and permit, and to require reporting of discharges to surface waters from land application. No individual spreading field-specific information is provided in the annual report. Nothing provided in the annual report addresses whether the facility has complied with the NMP and with all required best management practices on a field-by-field basis. With the very limited required elements in the annual report, there is no way to verify or determine whether the owner/operator has complied with their nutrient management plan, whether they exceeded application rates in the plan in actual practice, etc.

RESPONSE: No changes were made as a result of this comment. Many of these comments are outside the scope of this rulemaking as they request a level of specificity appropriate only for the operating permit itself. The proposed amendment incorporates and closely mirrors the requirements found in EPA regulation. Other portions of this comment are addressed within the Missouri CAFO Nutrient Management Technical Standard (NMTS). The NMTS is incorporated by reference into the rule and must be followed when developing a Nutrient Management Plan in accordance with section (5) of the proposed amendment.

COMMENT #24: MCE—Review of the provisions cited for deletion in the amendatory version on page six (6) of nineteen (19) is a more acceptable version of text defining agricultural storm water dischargers. The deleted language recognizes that such storm water is exempt from discharges when the operator has complied with nutrient management practices that ensure appropriate agricultural utilization. More deleted provisions are shown on page seven (7) of nineteen (19). These specific provisions were previous qualifiers limiting the reach of the exemption provisions to allow MDNR to address a variety of realistic noncompliance scenarios associated with adverse CAFO design and operations. These were important qualified limitations on the reach of the exemptions and such language should be restored to the present proposal.

RESPONSE: No changes were made as a result of this comment. The department was unable to determine which specific deleted provisions the commenter was referring to in this comment.

COMMENT #25: MCE—The first sentence of paragraph (3)(G)2. strikes the words "application rates for" thus rendering the rest of the sentence awkward and odd. This provision intrinsically attacks the requirement that there be no discharge from land application operations. A nutrient management technical standard that only calls for application rates whose effect is only to minimize and not prevent discharges to surface waters beyond application field boundaries does not provide sufficient effluent control to comply with the federal CWA requirement for effluent limitations reflecting BAT/BPT. The provision attempts to make a nutrient management technical standards established by the Clean Water Commission be incorporated by reference, but such reference must be to a specific enactment and citation by the Clean Water Commission. No such identification of any specific document is provided in the text of the rule. As we previously noted in prior comments, MDNR has not subjected the Missouri Concentrated Animal Feeding Operation Nutrient Management Technical Standard, adopted on March 4, 2009, to formal Missouri administrative rule adoption processes. The Missouri Nutrient Management Technical Standard (MO NMTS) itself contains the following statement: "NOTE: An operation may choose to use alternative protocols other than those established in this standard, however, it must be able to demonstrate that such alternative protocols provide both a reliable and technically valid basis for achieving the nutrient management objectives." The effect of this statement is to render the protocols and procedures of the MO NMTC to be nothing less than a non-enforceable, nonrule document. All effluent limitations for CAFOs must be enforceable and verifiable, but this cannot be the case for the primary "standards" document affecting site-specific nutrient management plan development and implementation in the state.

RESPONSE: No changes were made as a result of this comment. The proposed amendment complies with federal CAFO effluent regulations at 40 CFR 412, and paragraph (3)(G)2. in the proposed amendment closely mirrors 412.2(c). The NMTS was approved by the Clean Water Commission on March 4, 2009, and is incorporated by reference into the proposed amendment. EPA has specifically advised states in writing through their 2003 and 2008 EPA CAFO rule to build in and allow flexibility in using alternative protocols in this manner when they are technically valid.

COMMENT #26: MCE—MDNR is deleting the requirement to have a field-specific assessment of the potential for nitrogen transport to surface waters. No field- or soil-specific assessment is apparently done to assess the potential of applied wastes on groundwater. Elevated nitrate concentrations in groundwater will be the result of failure to address such issues in nutrient management plans.

RESPONSE: No changes were made as a result of this comment. Nitrogen management on fields and during land application is assessed and controlled through the use of the Plant Available Nitrogen procedure found within the NMTS. The soil-specific assessments found in this section of the rule pertain to a phosphorus loss risk assessment which is addressed through the Soil Test Phosphorus Rating and the Phosphorus Index found within the NMTS.

COMMENT #27: MCE—The phrases, "fields that do not have a high potential for phosphorus runoff to surface water" and "phased implementation of phosphorus based nutrient management" are not defined in the rule and these concepts are subject to varying interpretation. More clarity is necessary to properly determine the meaning of these two (2) terms. While "multi-year phosphorus application" is defined at paragraph (1)(B)14., the commentor questions whether MDNR's rules and practices actually ensure that operators do not actually apply waste in years subsequent to the "multi-year" application and that nutrient management plans recognize the zero (0) waste application subsequent years.
RESPONSE: No changes were made as a result of this comment. These terms and provisions were previously adopted from current EPA CAFO rules. Adherence to the required NMTS ensures operators do not actually apply waste beyond what would otherwise be allowed.

COMMENT #28: MCE—(3)(G)2. Editing of the existing rule without due care appears to have placed the subparagraphs (3)(G)2.A.–E. that were formerly considered to be mandatory elements of a CAFO's required submission of an NMP and made these subparagraphs modify the authority of the Clean Water Commission in adopting its nutrient management technical standards. This change does not make any sense, since it is apparent the real purpose of subparagraphs (3)(G)2.A–E. is to get CAFO-site-specific elements of the facility's site-specific Nutrient Management Plan established and these are not intended as written to be criteria for the Clean Water Commission decision on the Missouri Nutrient Management Technical Standard.
RESPONSE: No changes were made as a result of this comment. The department believes the proposed amendment sufficiently and appropriately explains the requirements as written.

COMMENT #29: MCE—On pages 12–13 of 19, considerable current regulatory text with several specific requirements is shown as being deleted. It is not clear that all of these authorities have been included elsewhere in the proposed text.
RESPONSE: No changes were made as a result of this comment. The department was unable to determine which specific deleted provisions the commenter was referring to in this comment as the page numbers referenced do not match the proposed amendment.

COMMENT #30: MCE—We see here in this paragraph (4)(A)1. that Missouri will not require preexisting CAFO operations to have their waste management facilities be subject to a requirement to demonstrate compliance with any design/operational standards provided in the proposed new 10 CSR 20-8.300 design standard rule. Note that this first paragraph does not impose any effluent limitations that involve waste storage facility operation.
RESPONSE: No changes were made as a result of this general statement (see comment #2).

COMMENT #31: MCE—(4)(A)2. "Effluent limits for subsurface waters shall be in accordance with 10 CSR 20-7.015(7)." This regulation features a provision at 10 CSR 20-7.015(7)(E) saying that a subsurface water quality standard rule did not apply for facilities designed and constructed to meet unspecified MDNR criteria ". . . provided these designs have been reviewed and approved by the department." Note that review and approval of the design and construction of waste lagoon facilities is not only not required, but the draft 10 CSR 20-8.300 rules explicitly say the department ". . . will not examine the adequacy or efficiency of the structural or mechanical components of the waste management systems." Note that consideration of whether the 10 CSR 20-7.015(7)(E) exemption from groundwater quality review under 10 CSR 20-7.015(7)(A) depends exclusively on two (2) simultaneous conditions. . . the first is that the department design criteria exists and second that the department has actually reviewed the designs of the facility in question. It is not clear from the rules how this site-specific second condition is verified in facilities holding general permits. MDNR allows groundwater nitrate up to the ten milligrams per liter (10 mg/L) limit which is widely considered to be a public health hazard at that aqueous concentration when used for drinking water. There is no groundwater criteria for ammonia or pathogens in the Missouri rule in Table A of the 10 CSR 20-7.031 Water Quality Standards. When the current groundwater condition is such that nitrate concentrations approach or exceed ten milligrams per liter (10 mg/L), there is no limitation on a CAFO groundwater discharger making such problems worse. Note that the rule can potentially be interpreted to create a duty for site subsurface water monitoring. Note also, there is nothing in MDNR regulations which would prevent a CAFO owner/operator from walking away from ammonia/nitrate polluted groundwater beneath waste storage lagoons that are, or will be, taken out of service. Ammonia contained in CAFO waste will eventually be oxidized to nitrates after seepage from lagoons or from land application. Natural attenuation will also be at work, but there is no information or worst case hydrogeological analysis from MDNR justifying why such waste storage lagoon seepage must be considered benevolent and without consequence to other/neighboring uses and users of the groundwater. (The new 10 CSR 20-8.300 regulation did not have any basis shown that would examine worst case groundwater contamination and transport regimes associated with operating and abandoned waste lagoon operations.) It might be helpful to verify whether MDNR ever regulated any CAFO owner/operator under the 10 CSR 20-7.015(7) regulation. The regulation at 10 CSR 20-7.015(7)(F) is not the strongest regulation here, but it nevertheless creates some accountability features which should be placed in permits.
RESPONSE AND EXPLANATION OF CHANGE: The department inadvertently left off the "(E)" on the reference to 10 CSR 20-7.015(7). This correction has been made to the final rule. A change to the subsurface effluent regulation in 10 CSR 20-7.015 for CAFOs is outside the scope of this rulemaking.

COMMENT #32: MCE—Paragraph (4)(A)4. is an adverse and potentially destructive paraphrase of the Clean Water Act agricultural storm water exception. However, any statement here without explicit mention that the CAFO must show appropriate agricultural utilization of the nutrients in the waste allows latitude around the federal agricultural storm water definition. It would be better to reference the federal exception text than to have MDNR produce this paraphrasing.
RESPONSE: No changes were made as a result of this comment. Paragraph (2)(E)5. in the rule provides clarity on what is meant by "agricultural storm water."

COMMENT #33: MCE—Paragraph (4)(A)5. addresses chronic (wet) weather events (see also discussion under paragraph (1)(B)5. which applies to this section as well). The draft contemplates declarations of a "chronic weather event" by the University of Missouri Missouri Climate Center which would trigger implementation of the MDNR "Wet Weather Management Practices for CAFOs." This one page practice sheet addresses lagoons about to overflow, gives allowances for spreading on frozen or saturated ground, and other measures. This practice document is not being subjected to rulemaking, even as it is portrayed as a *de facto* best management practice during chronic weather events. Without explanation, the document states that land application to frozen or saturated soils is preferable to allowing a lagoon to overflow (this must necessarily be considered on a site-specific basis for a valid review). Spreading waste liquids on frozen or saturated soils is supposed to be a non-BMP practice, but the wet weather policy embraces such a practice, and carrying out such practices creates a high probability of discharge from land application operations. Finally, the wet weather policy envisions land spreading on non- NMP, non-permitted fields. CAFOs should not be allowed to spread on new fields not in the present NMP without permit amendment, public notice, and comment.
RESPONSE: No changes were made as a result of this comment.

The implementation of "Wet Weather Management Practices" during chronic weather events is only allowed when storage structures are in danger of overflowing and are voluntary.

COMMENT #34: MCE—Paragraph (4)(A)6. contemplates wastewater management activities ". . . occurring outside of the production area systems that are not associated with land application [that] shall be identified in the CAFO's Nutrient Management Plan." However, the waste management activities that MDNR is attempting to consider separately from the production area must, by EPA's definition, be considered part of the production area and subject to regulation as a production area. MDNR cannot segregate one part of a production area at a CAFO from another part, and then say that one must comply with production area requirements and the other complies with different requirements. MDNR's approach violates EPA's CAFO permit program rules.
RESPONSE: No changes were made as a result of this comment. This paragraph does not exist in the proposed amendment.

COMMENT #35: MCE—(4)(B)1. This paragraph prohibits discharge into waters of the state from the production area. However, "waters of the state" includes subsurface waters in aquifers under 10 CSR 20-7.015(1)(A)6. Waste lagoons, feedlots, and other CAFO production area facilities will all discharge to groundwater through liner and soils seepage. As a result, this provision must be revised to create internal consistency with 10 CSR 20-7.015(1)(A)6.
RESPONSE AND EXPLANATION OF CHANGE: Section (4)(B)1. has been revised.

COMMENT #36: MCE—At paragraph (4)(B)2. it would be improper for MDNR not to require a source to obtain an NPDES permit in such a situation as posed by the rule.
RESPONSE: No changes were made as a result of this comment. This provision as written reflects the federal requirements found at 40 CFR 122.23(j).

COMMENT #37: MCE—Paragraph (4)(B)3. requires a regulated party to give ". . . a detailed explanation of the steps taken by the CAFO to permanently address the cause of the discharge that will ensure that a discharge from this cause does not occur in the future." However, writing the remedy required in this manner specifically precludes an appropriate response in situations in which it is either physically and/or institutionally impossible to "ensure" such a condition does not arise again.
RESPONSE: No changes were made as a result of this comment (see response below).

COMMENT #38: MCE—(4)(B)4.–6. These sections are all objectionable because they are attempts to insulate state "no-discharge" permit CAFOs from NPDES permit requirements and violation findings for failure once a discharge has occurred, and MDNR's draft even countenances multiple discharges without considering that each such discharge is a violation. Getting certification under 40 CFR 122.24(j) as a no discharge facility and then having a discharge is still a violation of CWA section 301(a) for unpermitted (no NPDES permit) discharge by a point source. MDNR should not create a compliance "out" for multiple discharges and the agency must not give itself discretion to excuse CAFO point sources with discharges from the NPDES permit requirement. State CWA program elements in 40 CFR 122.24(j) were never intended to authorize as allowable the kind of CAFO multi-discharge conduct that MDNR is contemplating in the draft rules. State permit CAFOs that discharge should be required to apply for an NPDES permit within thirty (30) days of any such discharge event.
RESPONSE: No changes were made as a result of this comment. Nothing in subsection (4)(B) of the proposed amendment precludes or restricts in any way the department from issuing a notice of violation for a discharge from a point source; nor does it limit in any way the department's ability to take enforcement action for a violation. Nothing in this subsection limits or restricts the departments clean water authority.

COMMENT #39: MCE—This subsection (4)(C) states that effluent limitations for Class II and smaller AFOs will be determined by Best Professional Judgement. However, this rule does not explain how such site-specific determinations would be addressed for general permits or whether general permits would be viable.
RESPONSE: No changes were made as a result of this comment. This comment is outside the scope of this rulemaking.

COMMENT #40: MCE—In the federal rule, these NMP requirements are explicitly tied to the definition and declaration of BAT and BPT in the federal rules, but MDNR did not show that relationship. The site Nutrient Management Plan should be considered an effluent limitation along with all of the other BMPs contained in the NMP. The CAFO owner or operator must be accountable for achieving the level of performance shown in the criteria for what NMPs must achieve.
RESPONSE: No changes were made as a result of this comment. The rulemaking sufficiently addresses the NMP requirements, their purpose and effectiveness.

COMMENT #41: MCE—Nothing is included here in section (6) that requires the CAFO owner/operator to conduct an assessment of groundwater contamination during closure activities for waste lagoons and to remedy any problems found.
RESPONSE: No changes were made as a result of this comment. This comment is outside the scope of this rulemaking.

COMMENT #42: MCE—General permits & NMP. Although MDNR staff claim their rules are intended to comply with EPA's year 2008 rulemaking, nothing in the MDNR documents really addresses EPA's post-Second Circuit Waterkeeper decision requirements for public participation at all. Under the court decision and EPA's rulemaking, terms of the NMP would be included in permits, the public would be afforded the opportunity to comment on NMPs and new procedures for certificates of coverage under general permits that would provide some level of public notice and participation for certificates of coverage. None of this appears in the MDNR proposal and the failure to do so constitutes a *de facto* nullification of an important previous environmental victory as it affects Missouri. Failure of a state to carry out public participation requirements for this effluent source category is a serious matter that should be raised quickly with U.S. EPA water staff in Region 7.
RESPONSE: No changes were made as a result of this comment. Paragraph (3)(A)2. of the proposed amendment incorporated by reference the specific federal regulation that addresses the concerns referenced in this comment.

COMMENT #43: Tyson respectfully requests MDNR remove all inferences to manure or litter as a "waste." The word "waste" suggests that a material no longer has a beneficial use and has a legal meaning under the Resource Conservation and Recovery Act (RCRA) which could cause confusion. Manure and/or litter have a beneficial use as a fertilizer and soil conditioner and therefore should not be considered or defined as a "waste" material.
RESPONSE: No changes were made as a result of this comment. The department must use the term "waste" in order to be consistent with terms used in other state and federal CAFO regulations. The use of the term "waste" in the proposed amendment is not intended, nor should it be construed, to suggest that the manure material no longer has a beneficial use or that is has any significance as it relates to the Resource Conservation and Recovery Act (RCRA).

COMMENT #44: Tyson—Like the term "waste," "disposal" is also a term of art under RCRA and should not be used when describing

the management of manure and/or litter. Tyson recommends that all uses of "disposal" to describe the management of manure and/or litter be deleted and the word "utilization" be inserted.
RESPONSE: No changes were made as a result of this comment. The word "disposal" is used only once in the context of manure management.

COMMENT #45: Tyson—The word "facility" has an industrial or factory connotation. This proposed amendment is for a farm. The vast majority of farms in Missouri are family owned and operated. These family farms are not industrial sites or factories. Tyson requests that the word "facility" be removed from the permit and the word "farm" inserted because that is a more accurate description of the proposed regulated community.
RESPONSE: No changes were made as a result of this comment. The department has strived, as practicable, to minimize the use of the term "facility" in the proposed amendment. The department acknowledges that the majority of animal feeding operations in Missouri are family owned and operated. The use of the term "facility" in the proposed amendment is used as a generic term.

COMMENT #46: Tyson—Throughout the proposed amendment, language regarding "proposed to discharge" exists. For instance on page two, there is a definition for "discharge or propose to discharge." On March 15, 2011, the 5th Circuit Court of Appeals in *National Pork Producers, et al* v. *EPA* ruled, "In summary we conclude that the EPA cannot impose a duty to apply for a permit on a CAFO that proposes to discharge or any CAFO before there is an actual discharge. However, it is within the EPA's province, as contemplated by the CWA, to impose a duty to apply on CAFOs that are discharging."
RESPONSE AND EXPLANATION OF CHANGE: The department concurs with this comment and has amended the proposed amendment by removing the phrase "propose to discharge."

COMMENT #47: Tyson—Paragraph (3)(D)2., requires "visual inspections at the land application area." It is unclear whether MDNR expects that these inspections be documented. Therefore, Tyson recommends that the word "documented" be inserted prior to "visual" in the text emphasized above.
RESPONSE: No changes were made as a result of this comment. The proposed amendment does not require written documentation of this visual inspection.

COMMENT #48: Tyson—Maintaining a strong bio-security policy is instrumental to the sustainability of a farm. Having assurance that MDNR will follow bio-security policies is very important to farmers. Therefore, Tyson requests language be added to the amendment that MDNR will follow the permittee's or the owner of the animal's bio-security policy when inspecting and entering farms.
RESPONSE: No changes were made as a result of this comment. This comment is outside the scope of this rulemaking. The department recognizes the important role that bio-security protocols play in the production and long-term viability of an animal feeding operation. The department has and will continue to work closely with the Missouri Department of Agriculture in ensuring that department policy and protocols are in place and appropriate.

COMMENT #49: Shafer, Kline, & Warren—We applaud the Missouri Department of Natural Resources (department) for clarifying 10 CSR 20-6.300(3)(B)2. This clarification will end the misinterpretation that department staff has used to limit the expansion of Sharpe and other pre-rule CAFOs with neighbors nearby. With that said, we are strongly opposed to the proposed change to 10 CSR 20-6.300(3)(B)2.B. The requirement that the operation must have had continuous operating permit coverage as of June 25, 1996, places unfair restrictions on Sharpe. Though Sharpe has been in continual existence since before this date, Sharpe had not yet received an operating permit from the department. Furthermore, this addition is not consistent with section 640.710.3., RSMo, which clearly sets the condition for exemption as existence and not operating permit coverage.
RESPONSE AND EXPLANATION OF CHANGE: The department has made a change to 10 CSR 20-6.300(3)(B)2. The department concurs that section 640.710.3., RSMo, sets the condition for the exemption as an operation that is in existence on June 25, 1996. The department has removed the sentence at subparagraph (3)(B)2.B. in the proposed amendment in its entirety.

COMMENT #50: The Missouri Climate Center recommends deleting the following criteria: one-in-ten (1-in-10) year return rainfall frequency over a one hundred twenty- (120-) day period and using supplemental criteria currently being developed in the document titled "NOAA Atlas 14, Precipitation Frequency of the United States." Specifically, the following criteria would apply toward a chronic weather event: one-in-ten (1-in-10) year return rainfall frequency over ten- (10-), ninety- (90-), one hundred eighty- (180-), and three hundred sixty-five- (365-) day periods. The suggested amended statement for Chapter 6, item 6, page 109, would read as follows: "The chronic weather event will be based upon evaluation of the one-in-ten (1-in-10) year return rainfall frequency over a ten- (10-) day, ninety- (90-) day, one hundred eighty- (180-) day, and three hundred sixty-five- (365-) day operating period. It is preferred the University of Missouri's Missouri Climate Center will determine, within a reasonable time frame, when a chronic weather event is occurring for any given county in the state." The best way to ensure rapid identification of precipitation events anywhere in Missouri that exceed these design storm criteria will require developing an automated reporting system. We look forward to assistance from MDNR to accomplish this task.
RESPONSE: No changes were made as a result of this comment. The department appreciates the technical assistance the Missouri Climate Center has provided the department in the past, and we look forward to future collaboration on these issues in the future. The department understands time frames on event determinations may vary.

COMMENT #51: Missouri Cattlemen's Association (MCA) is unopposed to the amendment as proposed to the extent it maintains the status quo for operation size determinations for beef operations and does not impose additional permitting burdens on the industry above and beyond mandatory federal regulations. MCA would urge the department to always exercise the discretion granted within the proposed amendment with an eye towards finding the least onerous and burdensome regulatory solution for livestock producers under the law, and with a pragmatic emphasis on minimizing expense for farmers and ranchers across the state. MCA also would like to emphasize its opposition to the department making CAFO designation decisions under the provisions of subsection (2)(D) based solely upon the location of an animal feeding operation in a critical watershed.
RESPONSE: No changes were made as a result of this general comment.

COMMENT #52: Missouri Pork Association and Missouri Agribusiness Association (MPA/Mo-Ag)—The term "chronic weather event" is defined in paragraph (1)(B)6. There is an introductory statement which explains that precipitation events and conditions "preclude" land application and dewatering practices and properly maintain wastewater storage structures. Chronic storm events may not necessarily "preclude" all land application during a period of chronic wet weather, but rather such events inhibit or severely restrict land application opportunities.
RESPONSE AND EXPLANATION OF CHANGE: The department has removed this first sentence from the definition. This sentence is more appropriately stated later in the rule under paragraph (4)(A)5.

COMMENT #53: MPA/Mo-Ag—Class I and Class II operations are defined in paragraph (1)(B)7. The department proposes that "all animal units within an individual animal species are summed together." My clients oppose this change to the regulations which is not consistent with EPA's regulation.
RESPONSE AND EXPLANATION OF CHANGE: The department has changed this definition.

COMMENT #54: MPA/Mo-Ag—Paragraph (2)(F)2. states that AFOs that did not previously have a construction permit must include in their permit application "documents required within the CAFO manure storage design rule." These operations are grandfathered and not required to submit all information required by the manure storage design regulation. This information may be impossible or difficult to assemble considering the operations have been grandfathered and may have been built years ago when there were no regulations. However, there may be some level of information that would be reasonable to provide such as volume of the lagoon. The department should not require this information or should clarify exactly what information is needed and why.
RESPONSE: No changes were made as a result of this general comment. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review.

COMMENT #55: MPA/Mo-Ag—In subsection (2)(F), the introductory paragraph refers to "general" NPDES and state no-discharge operating permits. We question whether there should be a limitation referring to "general" operating permits. Should this be removed? My client requests that any CAFO permit regardless of whether it is a general permit or site-specific permit should be issued concurrently with the construction permit.
RESPONSE: No changes were made as a result of this general comment. 10 CSR 20-6 already contains specific procedures for the issuance of site-specific permits which is outside the scope of this rulemaking. The department has proposed changes to the application and issuance process for a general CAFO permit in order to conform to the 2008 EPA CAFO rule.

COMMENT #56: MPA/Mo-Ag—In paragraph (2)(F)2., the regulation requires the CAFO to pay a construction permit fee even when a construction permit is not issued. Permittees should not have to pay fees for permits they do not receive.
RESPONSE AND EXPLANATION OF CHANGE: The department has removed this sentence from the rule. The addition of permit fees language in this proposed amendment was determined to be outside the scope of this rulemaking.

COMMENT #57: MPA/Mo-Ag—Proposed paragraph (3)(B)1. inserts the words "feedlot pen" and modifies the term "waste holding basin." My clients recommend the department follow the language in section 640.710, RSMo, which does not include feedlot pens, but rather only confinement buildings and lagoons. This comment relating to "feedlot pen" also pertains to subparagraph (2)(C)2.C.
RESPONSE AND EXPLANATION OF CHANGE: The department has removed the term "feedlot pen" to ensure consistency with section 640.710, RSMo. The department has also revised the term "waste holding structure" to "wastewater storage structure" to more accurately conform to the term "lagoon" which is used in section 640.710, RSMo.

COMMENT #58: MPA/Mo-Ag—Proposed changes to the neighbor notice requirement in subsection (3)(C) require the CAFO to provide "signature confirmation" that all parties listed in the neighbor notice section receive the neighbor notice. This "signature confirmation" requirement is not in H.B. 1207. My clients suggest that they need only provide the department with a certification that they mailed a copy of the neighbor notice letter to all required recipients at their address listed with the county assessor's office. It is not uncommon for landowners to be out of state for extended periods or to refuse to accept certified mail. In these circumstances, the "signature confirmation" cannot be provided to the department. In the past, this has caused significant delays without providing any corresponding environmental benefit. This same comment applies to paragraph (2)(C)3.
RESPONSE AND EXPLANATION OF CHANGE: In order to maintain consistency with section 640.715, RSMo, the department has removed the signature confirmation requirement in paragraph (3)(C)1.; however, the department has not revised paragraph (3)(C)3. as this sentence does appropriately conform to the above referenced statute.

COMMENT #59: MPA/Mo-Ag—Proposed subparagraph (3)(G)2.D. discusses a requirement that nutrient management plans include conditions that ensure manure applications are conducted in a manner that "prevents" surface runoff of process wastewater beyond the edge of the field. Such practices are not designed to minimize the opportunities for surface water runoff after storm water events.
RESPONSE: No changes were made as a result of this general comment. This sentence pertains only to the "application" of manure to a field, not to storm water runoff.

COMMENT #60: MPA/Mo-Ag—There is a reference in paragraph (4)(A)2. to effluent limitations for subsurface waters. This paragraph should be deleted because subsurface effluent limits are not applicable to CAFOs. The regulation in 10 CSR 20-6.300 and 10 CSR 20-8.300 are the effluent limitations applicable to CAFOs.
RESPONSE: No changes were made as a result of this general comment. Effluent limitations for subsurface waters do apply to CAFOs. Instead of unnecessarily duplicating 10 CSR 20-7.015(7) into this proposed amendment, the department has chosen to simply reference this requirement.

COMMENT #61: MPA/Mo-Ag—Subsection (4)(B) relates to state no-discharge permits. This subsection provides that a state no-discharge permit "will provide" a CAFO a no-discharge certification. We suggest the sentence be clarified to state that the state permit "serves as" or "constitutes" a no-discharge certification.
RESPONSE AND EXPLANATION OF CHANGE: The department has replaced the phrase.

COMMENT #62: Public Hearing—At the public hearing a request was made to better align the CAFO specific neighbor notice provisions (found at section 640.710, RSMo) with the department's public comment period for construction and operating permits. The commenter stated that if they were aligned directly, there would be less confusion on the public and it would work better.
RESPONSE: No changes were made as a result of this comment. The department acknowledges that, at times, there is confusion between these two (2) very separate and very different public comment periods. The neighbor notice provision is unique to CAFOs only and was established in the 1996 House Bill 1207 (i.e., the Hog Bill). This provision requires "the applicant," not the department, to notify certain neighbors within a specified distance from the operation at the time the application is submitted to the department for review. The department's public comment process is quite different in that the department places the draft permit, not the application, on public notice. In most CAFO permit issuance instances however, there will not be a department public comment period on the general permit. Only site-specific permits and future NPDES CAFO general permits will include the department public comment period. With this in mind, the department has not made any changes to this process.

COMMENT #63: Public Hearing—At the public hearing a comment was made to suggest the department no longer require Class IA CAFOs to maintain a site-specific permit. The commenter requested that they, like the other classified CAFOs, be allowed to receive coverage under the CAFO general permit.
RESPONSE: No changes were made as a result of this comment. The rule, in no way, prohibits Class IA from receiving coverage under a general permit. The department acknowledges that historically Class IA CAFOs were not allowed coverage under the CAFO general permit. Through continued refinement of our CAFO general permit the department will allow general permit coverage for Class IA CAFOs when appropriate.

COMMENT #64: Public Hearing—At the public hearing a comment was made about CAFOs that may also have a smaller side lot of beef cattle or some other animal in smaller quantities in addition to the main animal feeding operation. An example is a five thousand (5,000) head swine feeding operation that is clearly a Class IC CAFO that also has fifty (50) head of cattle in an open lot nearby on the same farm. The commenter requests that the smaller animal lot that is of different species than the larger animal feeding operation on site not be required to be included in the CAFO permit.
RESPONSE: No changes were made as a result of this comment. The EPA CAFO regulations clearly state that once an animal feeding operation becomes a regulated CAFO that all animals in confinement, regardless of species, are regulated as part of one (1) CAFO operating location. Because of this, the department is unable to make the requested change. Please note, however, that the department has and will continue to diligently work with CAFO operators to ensure that this type of issue does not become an unmanageable regulatory burden on the farming community. The department has always, and will continue to take a practical and reasonable approach with farmers when working through circumstances such as this.

10 CSR 20-6.300 Concentrated Animal Feeding Operations

(1) Definitions.
(B) Other applicable definitions are incorporated as follows:
1. Animal—Domestic animals, fowls, or other types of livestock except for aquatic animals;
2. Animal unit—A unit of measurement to compare various animal types at an animal feeding operation. One (1) animal unit equals the following: 1.0 beef cow or feeder, cow/calf pair, veal calf, or dairy heifer; 0.5 horse; 0.7 mature dairy cow; 2.5 swine weighing over 55 pounds; 10 swine weighing less than 55 pounds; 10 sheep, lamb, or meat and dairy goats; 30 chicken laying hens or broilers with a wet handling system; 82 chicken laying hens without a wet handling system; 55 turkeys in grow-out phase; 125 chicken broilers, chicken pullets, or turkey poults in brood phase without a wet handling system;
3. Animal unit equivalent—Any unique animal type, not listed, that has a similar manure characteristic as one of the listed animal unit categories. The department shall make the determination of an animal unit equivalent based upon manure characteristics that include manure volume and nutrient concentration;
4. Animal feeding operation (AFO)—A lot, building, or complex at an operating location where animals are stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve- (12-) month period, and crops, vegetation, forage growth, or post-harvest residues cannot be sustained over at least fifty percent (50%) of the animal confinement area within the normal crop growing season;
5. Catastrophic storm event—A precipitation event of twenty-four- (24-) hour duration that exceeds the twenty-five- (25-) year, twenty-four- (24-) hour storm event as defined by the most recent publication of the National Weather Service Climate Atlas;
6. Chronic weather event—The chronic weather event will be based upon an evaluation of the one-in-ten (1-in-10) year return rainfall frequency over a ten- (10-) day, ninety- (90-) day, one hundred eighty- (180-) day, and three hundred sixty-five- (365-) day operating period. It is preferred the University of Missouri's Missouri Climate Center will determine, within a reasonable time frame, when a chronic weather event is occurring for any given county in the state;
7. Class I and Class II operation—An AFO or CAFO's class size is based on the operating level in animal units of an individual animal type at one (1) operating location. Once a CAFO becomes a Class I operation, the animal units of all confined animals at the operating location are summed to determine whether the operation is Class IA, IB, or IC. Operations that are smaller than the Class II category are considered unclassified. The class categories, sorted by animal type, are presented in the following chart:

1 Animal Unit =

1	Beef cows, feeder cattle, veal calves, and cow/calf pairs	10	Sheep, lambs, and meat and dairy goats
0.5	Horses	30	Chicken laying hens and broilers with a wet handling system
0.7	Mature dairy cows	55	Turkeys in growout phase
2.5	Swine weighing over 55 pounds	82	Chicken laying hens without a wet handling system
10	Swine weighing less than 55 pounds	125	Chicken broilers and pullets, and turkey poults in brood phase, all without a wet handling system

Animal Class Category

	Class IA 7,000 AUs*	Class IB 3,000 to 6,999 AUs	Class IC 1,000 to 2,999 AUs	Class II 300 to 999 AUs
Beef cows, feeder cattle, veal calves, and cow/calf pairs	7,000	3,000 to 6,999	1,000 to 2,999	300 to 999
Horses	3,500	1,500 to 3,499	500 to 1,499	150 to 499
Mature dairy cows	4,900	2,100 to 4,899	700 to 2,099	200 to 699
Swine weighing over 55 lbs.	17,500	7,500 to 17,499	2,500 to 7,499	750 to 2,499
Swine weighing under 55 lbs.	70,000	30,000 to 69,999	10,000 to 29,999	3,000 to 9,999
Sheep, lambs, and meat and dairy goats	70,000	30,000 to 69,999	10,000 to 29,999	3,000 to 9,999
Chicken laying hens and broilers with a wet handling system	210,000	90,000 to 209,999	30,000 to 89,999	9,000 to 29,999
Chicken laying hens without a wet handling system	574,000	246,000 to 573,999	82,000 to 245,999	24,600 to 81,999
Turkeys in growout phase	385,000	165,000 to 384,999	55,000 to 164,999	16,500 to 54,999
Chicken broilers and pullets, and turkey poults in brood phase, all without a wet handling system	875,000	375,000 to 874,999	125,000 to 374,999	37,500 to 124,999

* Animal Units (AUs)

8. Concentrated animal feeding operation (CAFO)—An AFO that meets one (1) of the following criteria:

A. Class I operation;

B. Class II operation where either one (1) of the following conditions are met:

(I) Pollutants are discharged directly into waters of the state through a man-made ditch, flush system, or other similar man-made device; or

(II) Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the production area or otherwise come into contact with the animals confined in the operation; or

C. An unclassified operation that is designated as a CAFO in accordance with subsection (2)(D) of this rule;

9. Critical watersheds—defined as the following:

A. Watersheds for public drinking water lakes (L1 lakes defined in 10 CSR 20-7.031 and identified in Table G);

B. Watersheds located upstream away from the dam from all drinking water intake structures on lakes including the watershed of Table Rock Lake;

C. Areas in the watershed and within five (5) miles upstream of any stream or river drinking water intake structure, other than those intake structures on the Missouri and Mississippi Rivers; and

D. Watersheds of the Current (headwaters to Northern Ripley County Line), Eleven Point (headwaters to Hwy. 142), and Jacks Fork (headwaters to mouth) Rivers;

10. Discharge—A CAFO is said to discharge when it is designed, constructed, operated, or maintained such that a discharge of process waste to surface waters of the state will occur. This does not include CAFOs that merely have the potential to discharge to waters of the state. A CAFO that discharges could include one that continuously discharges process wastewater to surface waters of the state, as well as one that may only have an intermittent and sporadic discharge. Discharges of agricultural storm water is a non-point source and therefore not included within this definition;

11. Dry process waste—A process waste mixture which may include manure, litter, or compost (including bedding, compost, or other raw materials which is commingled with manure) and has less than seventy-five percent (75%) moisture content and does not contain any free draining liquids;

12. Flush system—Any animal waste moving or removing system utilizing the force of periodic liquid flushing as the primary mechanism for removing manure from animal containment buildings, as opposed to a primarily mechanical or automatic device. This definition does not include confinement buildings that utilize deep or shallow under-floor pits with pull plug devices;

13. Land application area—Agricultural land which is under the operational control of the CAFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied;

14. Multi-year phosphorus application—Phosphorus applied to a field in excess of the crop needs for that year. When multi-year phosphorus applications are followed, no additional manure, litter, or process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal or until subsequent soil testing allows for nitrogen-based rates;

15. No-discharge operation—A CAFO is considered no-discharge if the operation is designed, constructed, operated, and maintained in a manner such that the CAFO will not discharge to waters of the state. A discharge of agricultural storm water is a non-point source and therefore not included within this definition;

16. Occupied residence—A residential dwelling which is inhabited at least fifty percent (50%) of the year;

17. Operating location—For purposes of determining CAFO classification, an operating location includes all contiguous lands owned, operated, or controlled by one (1) person or by two (2) or more persons jointly or as tenants in common or noncontiguous lands if they use a common area for the land application of wastes. State and county roads are not considered property boundaries for purposes of this rule. Two (2) or more animal feeding operations under a common ownership are considered to be a single animal feeding operation if they adjoin each other or if they use a common area for the land application of wastes;

18. Overflow—The discharge of process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure;

19. Process wastewater—Water which carries or contains manure, including manure commingled with litter, compost, or other animal production waste materials used in the operation of the CAFO. Also includes water directly used in the operation of the CAFO for any or all of the following: spillage or overflow from confined animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other CAFO facilities; and water resulting from the washing, or spray cooling of confined animals;

20. Production area—The non-vegetated portions of an operation where manure, litter, or process wastewater from the AFO is generated, stored, and/or managed. The production area includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed and silage silos, pads, and bunkers. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing operation and any area used in the storage, treatment, or disposal of animal mortalities;

21. Public building—A building open to and used routinely by the public for public purposes;

22. Vegetated buffer—A narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters; and

23. Wet handling system—Wet handling system is the handling of process wastewater that contains more than seventy five percent (75%) moisture content or has free draining liquids. A wet handling system includes, but is not limited to, lagoons, pits, tanks, all gravity outfall lines, recycle pump stations, recycle force mains, and appurtenances.

(2) Applicability and Application for Coverage.

(B) Permit Coverage Required—Any CAFO owner or operator that proposes the construction, modification, expansion, and/or operation of a manure, litter, and/or process wastewater management system at a concentrated animal feeding operation shall obtain one (1) or more of the following permits listed below unless otherwise exempted under subsection (2)(E) of this rule.

1. Construction permit—All existing or proposed Class I CAFOs must obtain a construction permit prior to the initial construction, installation, modification, or expansion of a manure, litter, or process wastewater management system.

2. NPDES permit—Owners or operators of Class I CAFOs that discharge must obtain a state NPDES operating permit before any discharge occurs. Class I CAFOs that do not discharge may also apply for coverage under an NPDES permit.

3. State no-discharge permit—Owners or operators of Class I CAFOs that do not intend to discharge or propose to discharge and do not apply for coverage under a state NPDES permit shall obtain and maintain coverage under a state no-discharge operating permit. Compliance with a state no-discharge permit will provide a CAFO "No-Discharge Certification" in accordance with 40 CFR 122.23(i) and (j) July 1, 2009, without any later amendments or additions, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954.

(F) Construction and Operating Permit Applications. This section describes the application process and requirements for CAFO construction and general NPDES and state no-discharge operating permits.

1. An application for a construction permit shall include the permit application documents required within the CAFO manure storage design rule at 10 CSR 20-8.300. The construction application shall also include the application for an operating permit along with all applicable permit fees. The department may require other information as necessary to determine compliance with the Missouri Clean Water Law and these regulations.

2. An operating permit application for an AFO that did not previously have a construction permit or letter of approval (LOA) shall include the permit application documents required within the CAFO manure storage design rule at 10 CSR 20-8.300.

3. All construction permit applications shall require engineering documents along with a professional engineer's seal affixed to such documents in accordance with 10 CSR 20-8.300.

4. The department will not examine the adequacy or efficiency of the structural, mechanical, or electrical components of the manure management systems, only adherence to rules and regulations. The issuance of permits will not include approval of such features.

5. An application for a construction permit should be submitted to the department at least one hundred eighty (180) days in advance of the date on which the proposed construction will begin. A separate application for each operating location must be submitted to the department.

6. When an application is submitted incomplete and missing key components, the department may return the entire permit application back to the applicant for re-submittal. When an application is submitted sufficiently complete, but is otherwise deficient, the applicant and the applicant's engineer will be notified of the deficiency and will be provided time to address department comments and submit corrections. Processing of the application may be placed on hold until the applicant has corrected identified deficiencies.

7. Applicants who fail to correct deficiencies and/or fail to satisfy all department comments after two (2) certified department comment letters shall have the application returned as incomplete and the construction and operating permit fees shall be forfeited. The department will grant reasonable time extensions when the applicant requests additional time to respond to department comments, however, such requests must be in writing and must occur within the time frame set by the department.

8. When the department has received all documents and information necessary for a properly completed construction permit application, including appropriate permit fees, the department will, upon completion of the review and approval of said documents, act in one (1) of the following ways:

A. For an operation seeking coverage under the state no-discharge general operating permit the department will issue both the construction and the state no-discharge general operating permit concurrently; or

B. For an operation seeking coverage under the NPDES permit the department will post for fifteen (15) days on the department's webpage a notice of the pending CAFO NPDES permit. The notice will include an announcement of the opportunity for public review and comment on a CAFO's nutrient management plan and draft NPDES permit. The public may request, in writing, a fifteen- (15-) day extension to the public notice period for a permit. The department will post the public notice of a pending CAFO NPDES permit and consider all comments before issuing the construction and operating permit. The construction and NPDES operating permit will be issued concurrently. A public notice will not be required prior to the issuance of a construction permit for a manure or wastewater pipeline or land application system.

9. Construction permits shall expire one (1) year from the date of issuance unless the permittee applies for an extension. The department shall extend construction permits only one (1) time for a period not to exceed the originally issued effective period. An applicant requesting extension shall show that there have been no substantial changes in the original project. Extension requests should be received thirty (30) days prior to permit expiration.

10. When a construction permit is issued for a project for which the construction period is known in advance to require longer than one (1) year from the date of issuance, the department may issue a permit allowing a period of time greater than one (1) year upon the applicant showing that the period of time is necessary and that no substantial changes in the project will be made without first notifying the department. If there are substantial changes, the department may require the applicant to apply for a new construction permit.

11. Upon completion of construction and prior to the expiration date of the construction permit, the owner or operator for which a construction permit was issued shall submit in writing on forms approved by the department the engineering certification of the newly constructed systems. Engineering certification will document that the project was completed in accordance with approved plans and specifications. If changes were made during construction, as-built drawings of said changes shall be submitted with the certification in accordance with 10 CSR 20-8.300.

(3) Permit Requirements.

(B) Buffer Distances.

1. All Class I concentrated animal feeding operations shall maintain a buffer distance between the nearest animal confinement building or wastewater storage structure and any existing public building or occupied residence. The public building or occupied residence will be considered existing if it is being used prior to the start of the neighbor notice requirements of subsection (C) of this section or thirty (30) days prior to construction permit application, whichever is later. Buffer distances shall be—

A. One thousand feet (1000') for concentrated animal feeding operations between 1,000 and 2,999 animal units (Class IC operations);

B. Two thousand feet (2,000') for concentrated animal feeding operations between 3,000 and 6,999 animal units (Class IB operations); and

C. Three thousand feet (3,000') for concentrated animal feeding operations equal to or greater than 7,000 animal units (Class IA).

2. A concentrated animal feeding operation and any future modification or expansion of a CAFO is exempt from buffer distance requirements, but not neighbor notice requirements, when it meets all of the following criteria:

A. The CAFO was in existence prior to June 25, 1996; and

B. The CAFO does not expand to a larger classification size.

3. When existing animal feeding operations or concentrated animal feeding operations expand to a larger class size, the setback distances shall not apply to the portion of the operation in existence as of June 25, 1996.

4. Buffer distances are not applicable to residences owned by the concentrated animal feeding operation or a residence from which a written agreement for operation is obtained from the owner of that residence. When shorter setback distances are proposed by the operation and allowed by the department, the written agreement for a shorter setback distance shall be recorded with the county recorder

and filed in the chain of title for the property of the land owner agreeing to the shorter buffer distance.

5. The department may, upon review of the information contained in the construction application, including, but not limited to, the prevailing winds, topography, and other local environmental factors, authorize a buffer distance which is less than the distance prescribed in this rule. The department's recommendation shall be sent to the governing body of the county in which such site is proposed. The department's authorized buffer distance shall become effective unless the county governing body rejects the department's recommendation by a majority vote at the next meeting of the governing body after the recommendation is received.

(C) Neighbor Notice Requirements for Construction Permits.

1. Prior to filing an application for a construction permit with the department for a new or expanding Class I concentrated animal feeding operation, the following information shall be provided by way of a letter to all the parties listed in paragraph (3)(C)2. of this section:

A. The number of animals designed for the operation;

B. A brief summary of the waste handling plan and general layout of the operation;

C. The location and number of acres of the operation;

D. Name, address, and telephone number of registered agent or owner;

E. Notice that the operation and the department will accept written comments for a thirty- (30-) day period. The thirty- (30-) day notice period will begin on the day the construction permit application is received by the department; and

F. The address of the department office receiving comments.

2. The neighbor notice shall be provided to the following:

A. The department's Water Protection Program;

B. The county governing body; and

C. All adjoining owners of property located within one and one-half (1 1/2) times the buffer distances specified in subsection (3)(B). Distances are to be measured from the nearest animal confinement building or wastewater storage structure to the adjoining property line.

3. The construction permit applicant shall submit to the department proof the above notification has been sent. An acceptable form of proof includes copies of mail delivery confirmation receipts, return receipts, or other similar documentation.

4. All concentrated animal feeding operations shall submit, as part of the construction or operating permit application, an aerial and a topographic map of the production area. The maps shall show the operation layout, buffer distances, property lines, and property owners within one and one-half (1 1/2) times the buffer distance.

5. The neighbor notice will expire if a construction permit application has not been received by the department within twelve (12) months of initiating the neighbor notice requirements.

(4) Design Standards and Effluent Limitations.

(A) Effluent Limitations Applicable to All Class I CAFOs.

1. New and expanding CAFOs that apply for a construction permit after the effective date of 10 CSR 20-8.300 shall have manure, litter, and process wastewater management systems designed and constructed in accordance with the CAFO manure storage design standard rule 10 CSR 20-8.300.

2. Effluent limits for subsurface waters shall be in accordance with 10 CSR 20-7.015(7)(E).

3. For NPDES permits only—CAFOs shall comply with effluent limitations as set forth in 40 CFR Part 412, Subpart A through Subpart D, July 1, 2009, without any later amendments or additions, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which are hereby incorporated by reference.

4. There shall be no discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the land application of manure, litter, or process wastewater to land application areas under the operational control of the CAFO, except where it is an agricultural storm water discharge. When manure, litter, or process wastewater has been land applied in accordance with subsection (3)(G) of this rule, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of the CAFO is considered to be an agricultural storm water discharge.

5. A chronic weather event is a series of wet weather events and conditions that can delay planting, harvesting, and prevent land application and dewatering practices at wastewater storage structures. When wastewater storage structures are in danger of an overflow due to a chronic weather event, CAFO owners shall take reasonable steps to lower the liquid level in the structure through land application, or other suitable means, to prevent overflow from the storage structure. Reasonable steps may include, but are not limited to, following the department's current guidance on "Wet Weather Management Practices for CAFOs." These practices shall be designed specifically to protect water quality during wet weather periods. The University of Missouri's Missouri Climate Center will determine, within a reasonable time frame, when a chronic weather event is occurring for any given county in Missouri. The Missouri Climate Center's determination will be based upon an evaluation of the one-in-ten (1-in-10) year return rainfall frequency over a ten- (10-) day, one hundred twenty- (120-) day, and three hundred sixty-five- (365-) day operating period.

(B) Additional Limitations for State No-Discharge Permits at Class I CAFOs. A state no-discharge permit will serve as a CAFO "No-Discharge Certification" in accordance with 40 CFR 122.23(i).

1. There shall be no discharge of manure, litter, or process wastewater into surface waters, of the state from the production area.

2. If at any time a CAFOs waste management system is found to be discharging, the department may revoke the CAFO's no-discharge permit and require the CAFO to seek coverage under a NPDES permit.

3. If a discharge occurs at a CAFO with a state no-discharge permit, the owner or operator must submit to the department for review and approval the following documentation: a description of the discharge, including the date, time, cause, duration, and approximate volume of the discharge, and a detailed explanation of the steps taken by the CAFO to permanently address the cause of the discharge that will ensure that a discharge from this cause does not occur in the future.

4. When a discharge occurs at a CAFO, the CAFO will be allowed to maintain coverage under the no-discharge permit when the following two (2) conditions are met:

A. The department determines that the specific cause has been appropriately corrected so that the CAFO does not discharge; and

B. The CAFO has not had two (2) discharges at a given site for the same cause in any five- (5-) year period.

5. If a CAFO has two (2) separate discharge events brought about by the same cause, the department may terminate the no-discharge permit in which case the CAFO will be required to seek coverage under a NPDES permit.

6. In accordance with 40 CFR 122.24(j), when a discharge occurs at a CAFO, the CAFO will not be in violation of the requirement to seek NPDES permit coverage so long as the CAFO has operated and maintained the CAFO in compliance with the permit.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Design Guides

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 640.710 and 644.026, RSMo 2000, the commission adopts a rule as follows:

10 CSR 20–8.300 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2011 (36 MoReg 1927–1937). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held November 2, 2011. The public comment period ended November 16, 2011. The Department of Natural Resources (DNR) indicated that no comments were made on the proposed rule at the public hearing and fifty-four (54) comments pertaining to the rule were received via e-mail or letter.

COMMENT #1: Missouri Coalition for the Environment (MCE)—We propose that instead of the five hundred- (500-) year (0.2%), one hundred- (100-) year (1%), or twenty-five- (25-) year (25%) floodplain, the alluvial soils map is used to determine flood potential. Unlike the floodplains as delineated by the Flood Insurance Rate Map's (FIRM's) this delineation does not take into account levees, which should not be used to justify exempting Concentrated Animal Feeding Operations (CAFOs) from this improved regulation. Since levees breach on a regular basis across our state during flood years, and since flood years seem to be getting more and more frequent, it seems only prudent to require that any manure storage be protected to at least the one hundred- (100-) year level, regardless of whether or not it is behind a levee. This will greatly reduce the risk that the damages caused by a levee breach will be compounded by flooded and failing manure storage structures. The alluvial soils map largely coincides with the one hundred- (100-) year flood level, represents areas that have been historically inundated (hence the alluvium), and is available statewide, unlike the Digital Flood Insurance Rate Map (DFIRM) maps, which are only available for a portion of the counties in Missouri.
RESPONSE: No change was made as a result of this comment. The current rule condition that all CAFOs be protected from damage or inundation from the one hundred- (100-) year flood event is reasonable, practical, and protective. Using the one hundred- (100-) year flood level is an accepted industry practice and is routinely used within government agencies as a regulatory standard.

COMMENT #2: MCE—We propose that all operations in the alluvial plane should at least be required to meet the one hundred- (100-) year flood level and that all operations be modified or rebuilt to meet the new, common sense, storm water requirements for uncovered lagoons, by the time of their next permit renewal. All CAFOs located in the floodplains should have protections to five hundred (500) year levels since they store such incredibly toxic sludge that has the potential to spread disease during flood periods when people are at a higher risk for exposure to polluted surface waters. One hundred fifty- (150-) out of nineteen thousand ninety-five (19,095) permitted CAFOs are located in the alluvial plane, which is more or less synonymous with the one hundred- (100-) year floodplain in Missouri. The one hundred fifty (150) operations supposedly account for eighty-eight thousand six hundred fifty-one (88,651) animal units according to National Pollution Discharge Elimination System (NPDES) shape files acquired from DNR earlier this year. It is very important that these operations be retro-fitted to meet one hundred- (100-) year protections as soon as possible, regardless of whether they are expanding their operation. The fact remains that they are a significant public health hazard in terms of spreading antibiotic resistant bacteria and other pathogens to human populations, especially during flood conditions.
RESPONSE: No change was made as a result of this comment. This comment contains unverifiable statements to which we are unable to respond. This comment contains inaccurate data, particularly as it relates to the number of CAFOs, that is not supported by department data and records. The requirements in this new rule will only apply to new and expanding CAFOs. The suggestion made in this comment that existing CAFOs currently operating in the floodplain be expected to comply with an increased flood protection level is not practical. Very few CAFOs exist in the floodplain and in 2011, during a record high flood year, the department is only aware of one CAFO that was affected by flood waters. This CAFO was on the Mississippi River and was impacted when the levee was intentionally breached by the US Army Corp of Engineers. The current rule condition that all CAFOs be protected from damage or inundation from the one hundred- (100-) year flood event is reasonable, practical, and protective. Using the one hundred- (100-) year flood level is an accepted industry practice and is routinely used within government agencies as a regulatory standard.

COMMENT #3: MCE—The proposed improvements should apply to all operations large enough to have to build a waste lagoon, regardless of the reported total animal units, which may be misreported or kept just below the one thousand (1,000) animal units (AU) threshold to avoid permit requirements. This rule should be applied to all manure storage facilities, lagoons, etc. regardless of the reported number of animal units. Is not the value of cleaning up Missouri's water from concentrated waste storage operations worth more than twenty-five thousand dollars ($25,000)/yr? According to this Regulatory Impact Review (RIR) the rule has been crafted to provide "the least costly and intrusive methods, while still providing increased consistency, efficiency, and environmental protection in the regulation of CAFOs." This seems to mean that we have chosen the cheapest possible method for protecting against the impacts of CAFOs, not the best method, the cheapest. The fiscal note for this comes to a whopping twenty-four thousand fifty dollars ($24,050)/yr. This rule does not address the operations currently responsible for water quality and quality of life issues across our state that are not planning on expanding, apparently assuming that these operations do not pose a significant threat to the environment. The proposed improvements should apply to all operations large enough to have to build a waste lagoon, regardless of the reported total animal units, which may be misreported or kept just below the one thousand (1,000) AU threshold to avoid permit requirements. Nor does this rule address operations that are purposefully operating just below the one thousand (1,000) AU threshold to avoid these common sense rules and other protections that come through an NPDES permitting process. Despite the fact that a hog operation with two thousand four hundred (2,400) finishing hogs produces an amount of fecal waste equivalent to that produced by a city of twenty-four thousand (24,000) humans, this operation would be able to get by without a permit thanks to our inadequate and imbalanced regulation of these operations. So while public citizens are paying a lot to maintain water quality their investments in waste treatment are being undermined by these operations that take on very little responsibility for the waste they are managing. While, by the most recent data available, it appears that there are one thousand ninety-five (1,095) permitted CAFOs in Missouri, the National Resources Conservation Service (NRCS) reports that there were one hundred eight thousand (108,000) operations raising some kind of livestock in Missouri. Surely many of these are small farms, but many are operations that have been designed to skirt the regulations and these should be weeded out and required to get permits. Through our extensive work on CAFO issues in Missouri we have found many instances where facilities have purposefully misreported their AU totals, this should be ameliorated by requiring they submit a bill of sale or receipt accounting for every rotation of animals being confined and fed in their operation. This should be a requirement. All operations should be required to have a state operating permit if for no other reason than to allow for a tally of animals by location to be kept for all prudent water quality and environmental quality data to be assessed when making decisions.
RESPONSE: No change was made as a result of this comment. The

requirements in this new rule will only apply to new and expanding CAFOs. This comment contains several unverifiable statements to which we are unable to respond. While existing CAFOs are not subject to this new rule, all CAFOs in Missouri have undergone an engineering and construction permit review by the department in the past. The remaining portion of this comment is beyond the scope of this rulemaking. Statutory provisions found in state law at 640.710, RSMo, limits department regulatory and permit authority to Class I CAFOs (greater than one thousand (1,000) animal units) only.

COMMENT #4: MCE—The department should explain why these operations cannot be required to meet the same consistent standards as a new operation would be held to, despite the fact that they are just as risky and dangerous to public health as new or expanded operations. One of the major reasons to get an NPDES permit is to use technology and improved methods to eliminate pollution in our waters. The permit renewal process is designed to allow for operations to be brought into compliance with current regulations. This is the regulatory process prescribed by the Clean Water Act, and although federal regulations may not always make sense, this process is perfectly reasonable and is necessary for us to gradually bring the extensive water pollution in Missouri under control and to give nature a chance to coincide with our social and economic goals.
RESPONSE: No change was made as a result of this comment. This comment contains several anecdotal statements to which we are unable to respond. The requirements in this new rule will only apply to new and expanding CAFOs. Please reference the response to the related comments above. In addition, it is important to point out that EPA's New Source Performance Standard (NSPS) for CAFOs in 40 CFR 412, which was adopted in the 2008 EPA rule, apply only to new sources (new CAFOs), not to existing operations.

COMMENT #5: MCE—The regulation title should be amended to address storage design regulations for "animal waste, litter, and process wastewater." Use of only the term "manure" means that other relevant wastes that are supposed to be regulated (such as process wastewater, feed spoiled or rejected, etc.) become candidates for applicability exclusion when they should be determinately included under EPA regulations.
RESPONSE: No change was made as a result of this comment. This comment is outside the scope of this rulemaking. The scope and purpose of this rulemaking is to set forth specific design criteria for manure management and storage along with setting guidelines for preparing and submitting a construction permit application for a concentrated animal feeding operation.

COMMENT #6: MCE—The Strawman (SM) 10 CSR 20-8.300 draft regulation is completely silent on silage leachate, which is a significant water pollution problem. Silage leachate can contain high Biochemical Oxygen Demand$_5$ (BOD_5), Chemical Oxygen Demand (COD), ammonia and phosphorus and poses serious waste management and water quality concerns. Silage leachate can be intermingled with animal waste in storage lagoons, but it should not be permitted for uncontrolled discharge to surface waters. In addition, silage leachate can also discharge to groundwater from leaking silage bunkers and other silage storage. The rule language should be amended to ensure that all animal waste, litter, and particularly the "process wastewater" as defined in the federal regulation at 40 C.F.R. section 123(b)(7). MDNR's existing 10 CSR 20-6.300 regulation on the definition of "process wastewater" is close to or the same as the federal definition. In the present SM version of draft 10 CSR 20-6.300 regulation, MDNR is seeking a major change to this definition by dropping the phrase: "'Process wastewater' also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding" that is present in both the federal and current state definition. Dropping that phrase means that silage leachate, off-specification milk, eggs washing water, leachate from feed rejects, and other wastes will no longer be clearly required for regulation. It would further mean that the proposed "manure storage" regulations would not apply to storage and management of these wastes.
RESPONSE: No change was made as a result of this comment. This comment is outside the scope of this rulemaking. The design of silage leachate collection systems was not a component of this rulemaking effort.

COMMENT #7: MCE—The definition of "rainfall minus evaporation" should instead be for "net precipitation." The calculation method for net precipitation and the web location of the National Weather Service (NWS) atlas should appear, either in the regulation or as a footnote. The definition should be amended in a manner that allows the source determination of net precipitation to be checked and verified against known, identified, and published calculation methods and data sources as referenced. The present proposal does not provide a clear, specific, and enforceable method to determine net precipitation.
RESPONSE: No change was made as a result of this comment. The term "rainfall minus evaporation" has been long used in Missouri for CAFOs; no change to this term is necessary. The definition in the proposed rule references the National Weather Service Climate Atlas as a source.

COMMENT #8: MCE—Definition (1)(B)2. The definition of "freeboard" is highly unusual. "Freeboard" is usually defined as the distance between the top surface of the aqueous waste and the level at which a waste storage lagoon will either overtop the berm or the level of the spillway, whichever is lower. Since spillways are to be required (See subsection (7)(F) of draft reg on p. 8), "freeboard" should be defined as the distance between the level of aqueous waste being stored and the level of the required spillway. It does not make any sense to define freeboard in the manner proposed.
RESPONSE: No change was made as a result of this comment. The term "freeboard" and its definition in the proposed rule has been used in this manner for CAFOs in Missouri for a while. No change to this term or definition is necessary.

COMMENT #9: MCE—The definition of "manure" in the SM 10 CSR 20-8.300 reg attempts to refer back to the 10 CSR 20-6.300(1)(B) regulations, but there is no definition of "manure" provided in either the current or the SM versions.
RESPONSE: No change was made as a result of this comment. The reference to 10 CSR 20-6.300(1)(B) in this definition refers to the two (2) terms "dry process waste" and "process wastewater" which are defined in the 10 CSR 20-6.300 rule.

COMMENT #10: MCE—The Missouri CAFO Nutrient Management Technical Standard (NMTS) is not a Missouri administrative rule, but should be in order to have enforceable rule effectiveness. CAFO operators must be under a duty to ensure that their nutrient management plans comply with the technical standard and that any such Nutrient Management Plan (NMP) ensures appropriate agricultural utilization of applied nutrients. I do not understand how the present non-rule NMTS can have that binding effect.
RESPONSE: No change was made as a result of this comment. This comment is outside the scope of this rulemaking. This is only a definition of a term and not a rule condition or requirement. The requirements and conditions established for the NMTS are found in 10 CSR 20-6.300.

COMMENT #11: MCE—Definition paragraph (1)(B)8. The definition of "Solid Manure" seems to mean that material that can be stacked without free liquids *at the time of stacking* since such materials will pass free liquids once impacted by incident precipitation if it is stored uncovered outdoors (see additional discussion on the section (10) language on temporary stockpiling of solid manure). Water that comes into contact with a stack of solid manure should be considered

process wastewater that must be land applied according to Nutrient Management Plan (NMP) requirements.
RESPONSE: No change was made as a result of this comment. The department believes the definition is sufficiently clear as proposed. The definition does not state anything about "at the time of stacking."

COMMENT #12: MCE—The ten- (10-) year, ten- (10-) day storm definition seems to lack the concept that the precipitation event must be considered the maximum event based on the amount of precipitation expected to occur. "Geographical region" is not defined and is not clear. Citations to web URL locations to easily obtain this NWS product should be provided in footnotes or guidance.
RESPONSE: No change was made as a result of this comment. The department believes the definition is sufficiently clear as proposed.

COMMENT #13: MCE—General - NMPs. The physical facilities of waste management systems are traditionally indicated as NMP components, but the new waste regulations seem to provide new requirements which do not see waste storage facilities as part of the NMP for an individual CAFO site.
RESPONSE: No change was made as a result of this comment. The primary requirements for a NMP are found in 10 CSR 20-6.300 which address the production area.

COMMENT #14: MCE—"General" subsection (2)(A) SM 10 CSR 20-8.300 draft reg contains the following passage: "The manure storage design regulations shall be utilized by all Animal Feeding Operations which need or desire permit coverage. These regulations shall be used when evaluating all new AFOs or new or expanded components of existing AFOs after [Month Day Year (effective date of this regulation)]" This discussion in the "general" section is exceedingly unclear about what regulatory requirements are to be imposed, how such provisions are tied to other requirements in the rule proposal, who is being regulated, and for what purpose is the regulation occurring. These are not academic concerns. From the text above it is not clear how or whether the rule has binding effect on what a CAFO owner operation does and what is the role of MDNR in enforcing the requirements. While the first clause claims to require that the regulations "shall be utilized" by an AFO operator who is required to be permitted, what is missing is how AFO operators who have never previously complied with requirements under the rule will be required to come into compliance and by what date. The rule should be specifically amended to address this problem and to clarify that existing facilities must bring waste management units into compliance. These provisions should be redrafted to specifically address rule applicability, the binding effect of the rule on AFOs and to eliminate vague language like "shall be utilized" that clouds applicability determinations.
RESPONSE AND EXPLANATION OF CHANGE: The department has revised the proposed rule to better explain and clarify its applicability and purpose. The sections that have been revised include the purpose statement and subsection (2)(A), and subsection (2)(E) has been added.

COMMENT #15: MCE—Permit Apps. Nothing in this entire section explains the relationship between criteria and standards in this section, and application content requirements, and all of the other sections of the draft document. At the very least, permit application content requirements should be incorporated that are tied to these other sections of the rule. The applicant's submitted documents must be required to show how an applicant will comply with all of the applicable requirements.
RESPONSE: No change was made as a result of this comment. It is unclear exactly what the commenter is requesting in this comment. The proposed rule sufficiently provides the needed guidelines for preparing and submitting a permit application that will demonstrate compliance with the technical requirements. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #16: MCE—Permit Apps subsection (3)(A). The statement is made: "The department will not examine the adequacy or efficiency of the structural or mechanical components of the waste management systems." Although the preamble of this section indicates the applications are subject to approval, the quoted statement above appears to have the effect of MDNR eschewing all authority to determine the adequacy under the rule of what is contained in the engineering report section of an applicant's submittal. Taken literally, the statement might even be interpreted as an MDNR abdication from decision-making to disapprove demonstrably deficient applications.
RESPONSE: No change was made as a result of this comment. The department disagrees with the commenter's interpretation. The department does not review or provide approval to structural or mechanical components of a proposed waste or wastewater system. This would include the structural engineering plans for a building or foundation, electrical plans, and the appropriateness, selection, or efficiency of mechanical pumps, motors, and the like. The department is not staffed with electrical, mechanical, or structural engineers and reviewing this type of information without the required level of expertise is not appropriate. However, neither is it necessary as this is the responsibility of the applicant's consulting Professional Engineer. The department reviews the process design which would include ensuring design system capacities, days of storage, and nutrient management practices.

COMMENT #17: MCE—Apps subparagraph (3)(A)1.F. This subparagraph contemplates submitted applications which do not meet the design criteria as contained in the rule, but never explains how or why such deviations should be allowed and under what statutory basis the design exception is being taken. Part (VI) under this subparagraph should be specifically modified to bar the disposal of domestic sewage in CAFO process wastewater disposal systems.
RESPONSE: No change was made as a result of this comment. The department has authority and discretion to set design standards and allow deviations when sufficiently justified.

COMMENT #18: MCE—General section (3). The provisions of section (3) on applications should be revised and evaluated so that provisions of the draft rules in sections (5)–(14) having physical elements and standard requirements are properly reflected and wholly subsumed within the application requirement provisions of section (3). Presently, it is not clear that all of the provisions in sections (5)–(14) will necessarily be comprehensively and completely represented in section (3) permit application submittals.
RESPONSE: No change was made as a result of this comment. It is not reasonable or practical to expect that all aspects of every design will be described in this rule. The proposed rule sufficiently characterizes what is needed in permit applications. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #19: MCE—Apps Engineering. Nothing here in subsection (3)(A) clearly connects requirements on the contents of applications to the requirements, standards, and criteria shown in other sections of the proposal.
RESPONSE: No change was made as a result of this comment (see response to above related comments).

COMMENT #20: MCE—Apps subsection (3)(C). These provisions addressing NMP land application provisions should be removed from this rule section and integrated into the 10 CSR 20-6.300 rule. However, if the language is retained, the provisions shown are not

adequate to address land application NMPs. There are many deficiencies in what should appear in applications as to NMP land application submittal contents that are outside of the present discussion about storage of animal waste (to be addressed in the comments on the 10 CSR 20-6.300 rule). Notably, subsection (3)(C) does not require the application to identify locations of swales, concentrated flow lines, agricultural drains, and field tile outlets.
RESPONSE: No change was made as a result of this comment. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The proposed rule in concert with 10 CSR 20-6.300 sufficiently characterizes what is needed in permit applications. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #21: MCE—Location subsection (5)(A). Instead of saying that structures "shall be protected from inundation or damage due to the one hundred- (100-) year flood," the provision should explicitly prohibit siting of structures and facilities handling animal waste within a one hundred- (100-) year flood plain or within a wetland. Nothing here prohibits construction of waste storage and other animal waste managing structures in Karst topography. Nothing here ensures any setbacks at all for waste management facilities from drainage and agricultural ditches and concentrated flow lines leading to waters of the U.S.
RESPONSE: No change was made as a result of this comment. The proposed rule sufficiently explains and defines the required flood protection and setbacks to sensitive features. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #22: MCE—Location subsection (5)(B). The question must be asked here as to whether the named setbacks to streams apply to agricultural drains and other man-made conveyances that lead to waters of the U.S.
RESPONSE: No change was made as a result of this comment. The rule clearly defines the prescribed setbacks. If a setback to a feature is not listed, then it is not included or required.

COMMENT #23: MCE—Sizing paragraph (6)(B)4. This paragraph again falls into an attempt to enact a rule with non-rule language for situations involving uncovered liquid waste management systems with less than three hundred sixty-five (365) days of storage. The provisions say proposals "will be evaluated" without saying who will conduct such an evaluation, and for what purposes in relation to the permit issuance decision, with what minimum procedural and substantive standards for decision making. It is not clear what the decision-making consequences are of the exercise in carrying out what is to be "evaluated." This paragraph should be re-written in clear rule form saying what the applicable requirements are and how MDNR will make the decision to allow such uncovered liquid animal waste storage structures.
RESPONSE: No change was made as a result of this comment. This is a design guide and as such the department will evaluate each application on a case-by-case basis. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #24: MCE—Sizing subsection (6)(D). Excluded from this list is other process wastewater, such as silage leachate, egg cleaning water, compost pad leachate and runoff, off specification dairy product, etc. Subparagraph (6)(D)1.F. mentions runoff from pervious and impervious areas due to average rainfall. Best management practices (BMPs) should insist that clean, non-animal-waste-contact water should be diverted away from animal/waste/process contact areas. Facilities that take in large amounts of precipitation to be mixed with animal waste and other process wastewater or solid waste are not exercising appropriate BMPs that are required effluent limitations under EPA regulations. Subparagraph (6)(D)4.A. makes no sense with the present draft's articulation of the definition of "freeboard."
RESPONSE: No change was made as a result of this comment. This comment is outside the scope of this rulemaking. The design of silage leachate collection systems along with other miscellaneous waste treatment systems was not a component of this rulemaking effort. The proposed rule does not allow clean storm water to impact areas that are in containment, however areas that are exposed to precipitation and are within the manure containment area must be managed as process wastewater.

COMMENT #25: MCE—Concrete. The present draft contains no requirements or standards on the physical engineering design of concrete and concrete/steel liquid animal waste structures, such as those frequently used below swine operations. There are no standards for concrete construction, for leak-free techniques, for reinforced concrete construction, for corrosion/rust-resistant steel reinforcing wire, sealing, etc.
RESPONSE: No change was made as a result of this comment. This comment is outside the scope of this rulemaking. The department does not review or provide approval to structural or mechanical components of a proposed waste or wastewater system. This would include the structural engineering plans for a building or foundation, electrical plans, and the appropriateness or efficiency of mechanical pumps, motors, and the like. This is the responsibility of the applicant's consulting engineer. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #26: MCE—Geohydro subsection (7)(A). The permit applicants, not MDNR, should be responsible for submitting the required geohydrological investigation to be performed by a qualified geologist, at the expense of the permit applicant. This provision does not identify what are the minimum elements of a site-specific geohydrological investigation, nor does it identify the rating scale and basis for evaluation of "severe" and what "collapse" potential items are considered, the extent of minimum site specific data necessary to support a decision of acceptability of the site and the required qualification and report elements required for those creating geohydrological investigation work product. Provisions at paragraph (7)(A)2. do not provide sufficient procedural or substantive standards for agency decision making in considering liner and other requirements. There must be a clear rule text basis for the procedure and decision making concerning such matters that should be transparent. Where artificial impervious liners are required, there should be a rule basis for requirements on their installation and performance. The implication of the last sentence of paragraph (7)(A)2. is that post construction testing is somehow not required in most situations. However, post-construction testing should always be considered essential and necessary to verify property construction technique and to ensure that liners and soils are meeting the required coefficient of permeability as a matter of meeting minimum performance requirements. The rule as drafted does not appear to guarantee that the criteria of maximum permeability is actually achieved in practical construction after its completion. Provisions should be added to requirements for geohydrological investigation that addresses potential effects on neighboring wells, groundwater transport away from the production area, protection of groundwater quality from CAFO wastewater transport beneath storage structures, identification of all nearby sole source aquifer (as defined by federal Safe Drinking Water Act), identification of Karst 7 topography in the area of the production area, and all likely hydrological connections between animal waste and process wastewater storage facilities and surface waters of the U.S., including wetlands, that may occur.

RESPONSE: No change was made as a result of this comment. The portions referencing the geohydrological requirements are outside the scope of this rulemaking. These requirements are found in other department rules and guidance. In reference to the remaining comment, the department has determined that this design guide rule provides sufficient detail and information to provide the applicant's design engineer a standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #27: MCE—Soils paragraph (7)(B)2. The soils investigation here in this provision should provide recognized industry test methods or American Society for Testing and Materials (ASTM) methods for all listed parameters. Saying that the coefficient of permeability (undisturbed and remolded) should be clarified to indicate that "remolded" determinations are really to be post-construction determinations. Nothing here specifies the number and spatial distribution of required soil test investigations. Nothing indicates a required spatial density of testing depending on the area or size or otherwise explains how many site specific soil determinations must be made or how to make such a decision.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #28: MCE—Basin paragraph (7)(C)3. These provisions should specifically provide for the listed setbacks from groundwater to be four (4) feet from the bottom of any compacted clay liner, rather than the floor of the basin. Construction of curtain drains around the waste storage structure may mean the allowing of a hydrological connection between wastewater percolating through the bottom of the liner and transport of such drainage to perimeter drains leading to surface waters, thus creating a regular discharge to waters of the U.S. It does not seem that MDNR has given any consideration to the issue of waste lagoon performance when a direct hydrological connection exists through trans-liner seepage to groundwater that is directly adjacent to surface waters of the U.S. or man-made conveyances (i.e. agricultural ditches) to such surface waters. Discharges to surface waters that occur through a direct hydrological connection from lagoon seep water must be considered under Clean Water Act (CWA) regulatory jurisdiction.
RESPONSE: No change was made as a result of this comment. This comment is outside the scope of this rulemaking. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #29: MCE—Slopes subsection (7)(D). This provision is not written in suitable rule language to create a mandatory binding duty on the permit applicant/owner/operator. Phrases like "consideration may be given" are not enforceable and do not provide either procedural or substantive standards for making decisions.
RESPONSE: No change was made as a result of this comment. The department believes the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #30: MCE—Permeability subsection (7)(G). These provisions should be amended to require post-construction field testing and verification of final waste storage lagoon bottom in-situ soils or the compacted clay liner to be less than $1.0E^{-7}$ centimeters/second for the coefficient of permeability, with a suggestion of one post construction test determination per every quarter (0.25) acre of lagoon floor according to the published ASTM test method for coefficient of permeability.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #31: MCE—Seals paragraph (7)(G)3. Instead of requiring "sealing" techniques of non-identified efficacy and performance, MDNR should instead require impermeable artificial liners over compacted clay as a state standard for such waste storage basins.
RESPONSE: No change was made as a result of this comment. The department believes the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #32: MCE—Permeability. The provision at subparagraph (7)(G)3.A. is vague and the second sentence does not make sense in the context of the regulation; ". . .areas where potable water might become contaminated or when the wastewater contains industrial contributions of concern. . ." is too vague of a concept to be enforceable since the draft does not define any of the criteria by which a decision on such "areas" would be made. Regulations written in this manner do not properly identify MDNR to be the decision maker when the text of the rule calls for a decision to be made. In addition, such poorly written regulations do not properly identify the criteria for making such decisions under the rule. In the absence of a properly written rule text, the draft text potentially encourages operators to make invalid and/or nondefensible self-determinations with high potential impacts and commitment of natural resources. The rule must be amended to identify the final decision maker as MDNR as part of the permit issuance process and that it is the CAFO operator's responsibility to submit an application and to comply with requirements for such CAFO operations. There must be clear standards of decision making. In order to protect both public health and public water resources, decisions on allowing high effluent practices must be publicly vetted proposals by the permit-authorizing authority, and decisions about which groundwater resources must be protected and must be a transparent process involving final decision making by a permit authorizing authority. Finally, the public must be afforded a role for at least notice and comment about decisions affecting public water resources and the issuance of effluent permits for concentrated animal feeding operations. Finally, MDNR should publicly identify the regulatory basis and/or rationale for the two (2) different rates cited (five hundred (500) and three thousand five hundred (3,500) gallons per acre per day). Further, MDNR should identify how using these two (2) rates would affect both a nominal case and a separate worst case situation of waste lagoon groundwater discharge through seepage and the potential impacts of such practices on neighboring groundwater and surface water resources. Assessing such impacts from agricultural wastewater must ensure that all relevant pollutants and potential pollutant transformation should be considered.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #33: MCE—Liners subparagraph (7)(G)3.B. The liner thickness rule uses both the term "liner thickness" and "seal thickness." These terms should be explained/reconciled. The basis of the equation and/or the objective of its use should be explained and justified. Since soils for liners can be obtained on an economic basis in most locations from offsite sources if they are not available onsite, MDNR's decision to allow liners with soils of permeability coefficients greater than $1.0E^{-7}$ centimeters/second appears to condone non-exemplary siting and practices which may cause greater impacts to groundwater quality than what would occur from readily available means of achieving a $1.0E^{-7}$ centimeters/second coefficient of permeability.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #34: MCE—Waste lagoon site. Nothing anywhere in the regulation states that a site to be used for a waste lagoon must not be underlain with old agricultural drains/tiles which can lead to catastrophic failures and leaks of waste lagoon systems. All such tiling should be excavated from a site and such voids filled and re-compacted before final liner construction.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #35: MCE—Alternative liners subsection (7)(J). This provision on alternative liners is not effective and does not place any minimum floor or standard on what liners are used and what performance they achieve. The approaches mentioned have widely varying efficacy on controlling seepage.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #36: MCE—Percolation losses subsection (7)(K). There is no basis, rule, or findings on when percolation tests are required and when they are not. MDNR is not identified as the decision maker as to percolation loss testing. Notwithstanding the Percolation loss testing provision, such a provision cannot be a substitute for engineering verification of the coefficient of permeability by postconstruction required testing by an ASTM method. There is no clear basis or discussion of the relationship between the one-sixteenth (1/16) inch seepage rate per day and the rates in different units shown in subparagraph (7)(G)3.A. A rate of one-sixteenth (1/16) acre-inch per day is one thousand six hundred ninety-seven (1697) gallons per acre per day. As a result, it is not clear why the three thousand (3,000) gallon per acre per day rule should be considered acceptable as presently shown at subparagraph (7)(G)3.A. The barrel test combined evaporation/precipitation approach of the ten (10) barrel method is likely to understate evaporation during windy conditions if the liquid level in the barrel is shielded from incident wind impacts.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #37: MCE—Sludge subsection (7)(M). The sludge accumulation provision is not written in a manner that is enforceable. The provision should require periodic operator inspection of waste lagoons to determine the thickness of the sludge layer. The CAFO operator should be required to remove such sludge accumulations when the sludge accumulation level exceeds the design basis used to justify sizing of the waste lagoon for purposes of determining the ability of the waste lagoon to contain a five- (5-) year twenty-four- (24-) hour storm or a chronic precipitation event.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #38: MCE—Tanks subsection (8)(A). This rule should be amended to give a definition of a "pit." There must be clarity that this subsection does not create another category of waste storage/management facilities that are earthen lined/bounded liquids enclosures. The requirement should provide a four (4) foot margin from the bottom of tank structures to the seasonal high water table level; the way this is indicated here conflicts with the way application requirements are described for the four (4) foot rule at (3)(A)3.E. That an applicant has installed perimeter foundation drains around a tank structure should not mean that the facility is exempted from the requirement to maintain the four (4) foot margin to the water table elevation from the bottom of the facility liner. A perimeter drain installed one (1) foot below the foundation floor may lower the water table, but it is not likely to lower such water table level by the amount

of four (4) foot. This particular subsection probably mixes discussion of perimeter drains with other types of drains in a manner not conducive to accurate description within the text of the rule.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #39: MCE—Headspace subsection (8)(B). Use of floating roofs and plastic covers placed directly on the surface of liquid waste lagoons are a recognized method of reducing emissions of odors, ammonia, and volatile organic compounds from waste storage facilities. The rule should not interfere with that engineering approach to gas management from liquid waste lagoon facilities.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #40: MCE—Drain subsection (8)(D). The benefits of using granular drain material as an engineering method for perimeter drain installation will be defeated unless the use of soil cloth for drain material boundaries to keep soil particles out of the drain material interstitial spaces in not also made a requirement. Provisions here do not explicitly say that the soils and foundation eleven (11) review must be done prior to commencement of construction of the tank or pit and that such information should be part of a construction permit application.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #41: MCE—Concrete subsection (9)(F). This provision is too vague to be enforceable. The concrete construction requirements of the rule should be explicitly stated with specific references to specific known and published standards which must guide all such concrete construction in Missouri. Concrete construction of waste storage facilities should feature preprepared and poured wall footings, reinforced wall, and floor construction and impermeable keyed-in water tight sealing at the junctures of walls and floors to prevent leaks. Concrete construction standards should feature mandatory use of corrosion/rust-resistant coated steel reinforcement rods to address damaging effects of wastewater constituents on uncoated steel reinforcements. In construction of swine or dairy confinement buildings featuring slatted flooring and waste storage beneath such flooring, support pillars for such elevated slatted flooring should be placed over pre-poured supports under such pillars to avoid tank floor cracking from shear stresses.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #42: MCE—Construction subsection (9)(A). The text of this provision should be recast to require diversion for precipitation run-on and run-off, rather than for "surface water" which can be mistakenly interpreted as waters of the United States. Nothing in this permit is authorizing the diversion of ambient stream surface waters. Instead, the draft should be amended to specifically cite the duty for clean water diversion shown at 40 CFR section 122.42(e)(1)(iii).

RESPONSE: No change was made as a result of this comment. The department believes this section of the design guide rule provides sufficient detail and information.

COMMENT #43: MCE—Rain gage. Nothing in the draft rules requires operation of a rain gage at CAFO production areas, including a requirement for the collection of daily precipitation records and the requirement to record weather conditions and precipitation in association with land application activities.

RESPONSE: No change was made as a result of this comment. The department believes the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #44: MCE—Construction subsection (9)(B). attempts to describe requirements in a single combined section that addresses all "Floors of Covered and Uncovered feedlots, poultry buildings, and other solid manure storage areas." This section should be completely reorganized to focus on each of the physical elements as they are included as being included. Standards of addressing covered vs. uncovered structures should be completely separated because uncovered structures must address process wastewater containment arising from defined storm events. Uncovered structures will always require more specifically stated requirements to address waste containment.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #45: MCE—paragraph (9)(C)3. The uncovered solid storage area requirements to ". . .have a runoff collection structure that meets the requirements of 10 CSR 20-800. . ." is vague and indeterminate since no "runoff collection" physical elements or performance requirements are described in the rule text. The need for specific physical element and minimum environmental performance requirements covering solid waste storage is essential since operation of such waste management units as part of the production area cannot be allowed to

cause a discharge of process wastewater except as a direct consequence of a storm event exceeding a twenty-five- (25-) year, twenty-four- (24-) hour storm event.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #46: MCE—Feedlots section (9). What is demonstrably inadequate from this rule section are rule requirements for the management duties, physical elements, and engineering design requirements and operational standards of how an uncovered, outdoor feedlot owner/operator shall ensure that the operating unit combination of an uncovered feedlot together with the runoff control system does not cause any discharge to surface waters except during a storm event that exceeds the level of precipitation for the CAFO site for a twenty-five- (25-) year twenty-four- (24-) hour storm event. Also missing from this section are requirements for solid waste composting operations and mortality composting operations to avoid discharges from these production area facilities.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #47: MCE—Trackout. Nothing in the draft rule addresses trackout on vehicle tires of animal wastes and subsequent discharge of such wastes to stormwaters in violation of production area no discharge requirements. Control of trackout to keep animal waste from coming into contact with precipitation may require tire washing.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #48: MCE—Nothing in the draft rule addresses the requirement that CAFO waste entrained in spreader equipment pressure washing operation effluent must be collected for waste storage and not discharged to surface waters.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #49: MCE—Airborne deposition. Nothing in the draft rule recognizes that ammonia evaporative and fugitive dust emissions from CAFO production area site operations can lead to physical deposition of airborne CAFO wastes to local adjacent waterbodies and wetlands, and thus constitute a discharge of CAFO waste to surface waters of the U.S. The commentator is aware of at least one (1) case of EPA enforcement in Region V against a turkey CAFO for discharge to surface waters from CAFO ventilation dust deposited in an adjacent agricultural drain. A recent EPA guidance document on CAFO discharges cited an example of irrigation overspray being directed towards an agricultural drain and that such an operation constituted a discharge to surface waters of the U.S.
RESPONSE: No change was made as a result of this comment. This comment is outside the scope of this rulemaking.

COMMENT #50: MCE—Feedlots section (9). The commentator raises the question of whether an "uncovered" feedlot must be a structure in order to have applicability for the "floor" requirements shown, or whether all exterior, uncovered feedlots are covered by "floor" requirements.
RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #51: MCE—Temp Piles section (10). This entire section is intended to create an unlawful exception from waste storage facility requirements to allow waste storage in the form of temporary stockpiles of CAFO solid wastes located in land application fields with plainly insufficient runoff control and virtual certainty of a discharge. Once a waste storage area has been established, it must be considered that it is part of a production area at a CAFO since waste storage is a necessary production area activity. MDNR cannot validly create an exception from requirements that a waste storage area have no discharge to surface waters except during a storm event exceeding a twenty-five- (25-) year, twenty-four- (24-) hour storm event. The proposed management measures outlined in subsection (10)(B) cannot ensure there will be no discharge to surface waters of the U.S. In addition, there is no possible interpretation that forming temporary storage piles in land application areas constitutes land application at an agronomic rate that ensures appropriate agriculture utilization of all nutrients in the waste. The paragraph (10)(B)4. provision is an implicit admission by MDNR that such temporary storage situations discharge to waters of the U.S. Because there are no monitoring, record-keeping, and reporting requirements to address temporary stockpile process wastewater generation and discharge, this provision will have little or no protective effect in actual practice. The "protective measure" provision of subparagraph (10)(B)1.B. is neither specific, nor is it effective, and it certainly does not reflect a no discharge requirement. The separation distances provided for the location of stockpiles and other features that use separation distances similar to those provide for agronomic land application. However, the existence of a large uncovered stockpile of animal waste solids creates a much higher potential for precipitation induced discharge than mere agronomic waste application under ideal field conditions. As a result these should be justification for greater

separation distance requirements for stockpiles than for land application from critical water and public features.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #52: MCE—Stream Cross section (11). The provisions here address structures which are permanent stream crossings by CAFO waste conveyance piping. However, the physical practice of using temporary and mobile irrigation piping across streams in association with irrigation of waste effluents is not addressed in the draft rule text and presents the greater risks of accidents and spills because of common industry practice. Such irrigation operations should be subject to operational standards, operator training, operator tending, and maintenance requirements.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #53: MCE—Monitoring section (13). This provision does not require specific elements of the case-by-case determination that must be made and the natural resource protection basis of criteria for requiring groundwater monitoring. For example, there is no citation to the need to protect existing high quality uses of groundwater, to protect groundwater with an immediate hydrological path to surface water, or to otherwise protect against rapid percolation of CAFO process wastewater to groundwater in Karst topography, etc. in relation to groundwater monitoring requirements near CAFO waste storage lagoons. The rule needs to quantify the threshold criteria and physical elements that would be present that mitigate for groundwater monitoring requirements for both production areas and land application areas. One such condition might be the present condition of excessive ammonia, nitrates, and/or pathogens already known to be present in area groundwater. The rule is written to require hydrogeological investigation only after a case-by-case decision is made citing the listed factors (presently with no quantitative threshold basis). This properly raises the question of what level and specificity of hydrogeological investigation is necessary to support the initial case-by-case finding called for by the rule. This should be a required application content item, but it does not appear the proposal is written in such a manner.

RESPONSE: No change was made as a result of this comment. The department believes this design guide rule provides sufficient detail and information to provide the applicant's design engineer an appropriate standard to base design decisions and engineering certification on. The department requires all design documents and construction applications be sealed by a Missouri licensed Professional Engineer. It is not reasonable or practical to expect that all aspects of a design and application will be described or characterized in this rule. The department has determined that the level of documentation required in 10 CSR 20-8.300 is appropriate to effectively provide the necessary level of regulatory review for CAFOs in Missouri.

COMMENT #54: Hoehne—Definitions paragraph (1)(B)2. Freeboard. The elevation difference between the bottom of the spillway to the lowest point on the top of the berm for an earthen manure storage basin.

RESPONSE: No change was made as a result of this comment. The department agrees the elevation must be at the lowest point of the top of berm; however, the department determined this additional detail is not necessary to add to the rule.

10 CSR 20-8.300 Manure Storage Design Regulations

PURPOSE: This rule sets forth criteria prepared as a guide for the design of manure management systems at concentrated animal feeding operations. This rule shall be used together with 10 CSR 20-6.300 Concentrated Animal Feeding Operations. This rule reflects the minimum requirements of the Missouri Clean Water Commission in regard to adequacy of design, submission of plans, and approval of plans. It is not reasonable or practical to include all aspects of design in this standard. The design engineer should obtain appropriate reference materials which include but are not limited to: copies of ASTM International standards, design manuals such as Water Environment Federation's Manuals of Practice, and other design manuals containing principles of accepted engineering practice. Deviation from these minimum requirements will be allowed where sufficient documentation is presented to justify the deviation.

(2) General.

(A) Applicability. This rule shall apply to new or expanding concentrated animal feeding operations (CAFOs) that commence construction on or after April 30, 2012.

(E) Deviations. Deviations from these rules may be approved by the department when engineering justification satisfactory to the department is provided. Justification must substantially demonstrate in writing and through calculations that a variation(s) from the design rules will result in either at least equivalent or improved effectiveness. Deviations are subject to case-by-case review with individual project consideration.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 1—Definitions and Organizational Structure

ORDER OF RULEMAKING

By the authority vested in the Department of Natural Resources under section 256.626 RSMo 2000, the department amends a rule as follows:

10 CSR 23-1.050 Qualifications **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 17, 2011 (36 MoReg 2178–2179). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on November 28, 2011. The public comment period ended on November 30, 2011. No comments were received on this rulemaking.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 41—General Tax Provisions

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 32.065, RSMo 2000, the director amends a rule as follows:

12 CSR 10-41.010 Annual Adjusted Rate of Interest **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2687–2689). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 200—State Library

ORDER OF RULEMAKING

By the authority vested in the Secretary of State under sections 181.021 and 181.060, RSMo Supp. 2011, the secretary amends a rule as follows:

15 CSR 30-200.010 State and Federal Grants—Definitions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2698–2699). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 200—State Library

ORDER OF RULEMAKING

By the authority vested in the Secretary of State under sections 181.021 and 181.060, RSMo Supp. 2011, the secretary amends a rule as follows:

15 CSR 30-200.020 State and Other Grants-in-Aid **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2699–2701). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 2—Licensing of Physicians and Surgeons

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.100.5., RSMo Supp. 2011, and section 334.125, RSMo 2000, the board amends a rule as follows:

20 CSR 2150-2.150 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2703–2704). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Registration for the Healing Arts received one (1) comment on the proposed amendment.

COMMENT #1: Brian Bowles, with the Missouri Association of Osteopathic Physicians and Surgeons and on behalf of the Missouri Society of the American College of Osteopathic Family Physicians, noted the reference to the "American Academy of Family Practice" should be the "American Academy of Family Physicians."
RESPONSE AND EXPLANATION OF CHANGE: The board agreed to change section (1).

20 CSR 2150-2.150 Minimum Requirements for Reinstatement of Licensure

(1) The board may require each applicant seeking to restore to good standing a license, certificate, or permit issued under Chapter 334, RSMo, which has been revoked, suspended, or inactive for any reason for more than two (2) years, to present with his/her application evidence to establish the following:

(A) Satisfactorily completing twenty-five (25) hours of continuing medical education courses, American Medical Association Category 1, American Osteopathic Association Category 1A or 2A, or American Academy of Family Physicians Prescribed credit, for each year during which the license, certificate, or permit was revoked, suspended, or inactive; and

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 3—Licensing of Physical Therapists and Physical Therapist Assistants

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000, and sections 334.530, 334.540, 334.550, and 334.687, RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-3.010 Applicants for Licensure as Professional Physical Therapists **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2705–2706). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 6—Licensure of Athletic Trainers

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000, and section 334.706.3(2), RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-6.010 Definitions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2707). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 6—Licensure of Athletic Trainers

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000, and sections 334.702, 334.704, 334.706, 334.708, 334.710, and 334.712, RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-6.020 Applicants for Licensure as Athletic Trainers **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2707–2708). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 6—Licensure of Athletic Trainers

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000, and section 334.706.3(2), RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-6.040 Code of Ethics **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2709). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 6—Licensure of Athletic Trainers

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000, and section 334.706.3(2), RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-6.062 Late Registration and Reinstatement **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2709). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2233—State Committee of Marital and Family Therapists
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Committee of Marital and Family Therapists under sections 337.700 and 337.727.1.(10), RSMo Supp. 2011, the committee amends a rule as follows:

20 CSR 2233-1.010 Committee Information—General Organization **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2926). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2233—State Committee of Marital and Family Therapists
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Committee of Marital and Family Therapists under sections 337.700 and 337.727.1.(7) and (10), RSMo Supp. 2011, the committee amends a rule as follows:

20 CSR 2233-1.030 Complaint Handling and Disposition **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2926–2927). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2233—State Committee of Marital and Family Therapists
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Committee of Marital and Family Therapists under sections 337.712 and 337.727, RSMo Supp. 2011, the committee amends a rule as follows:

20 CSR 2233-1.040 Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2927–2929). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2233—State Committee of Marital and Family Therapists
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Committee of Marital and Family Therapists under sections 337.700 and 337.727.1.(7) and (10), RSMo Supp. 2011, the committee amends a rule as follows:

20 CSR 2233-1.050 Name and Address Changes **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2930). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.010, 339.030, 339.040, 339.080, 339.110, 339.120, and 339.160, RSMo Supp. 2011, the commission amends a rule as follows:

20 CSR 2250-4.070 Partnership, Association, or Corporation License **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2709–2710). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 7—Schools

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.045, RSMo 2000, and sections 339.090 and 339.120, RSMo Supp. 2011, the commission amends a rule as follows:

20 CSR 2250-7.070 General Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2710). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 8—Business Conduct and Practice

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2011, the commission amends a rule as follows:

20 CSR 2250-8.030 Branch Offices **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2710–2711). No changes have been made in the text

of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2250—Missouri Real Estate Commission
Chapter 8—Business Conduct and Practice

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.100, 339.105, and 339.120, RSMo Supp. 2011, the commission amends a rule as follows:

20 CSR 2250-8.120 Deposits to Escrow or Trust Account **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2711). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 1—General Organization

ORDER OF RULEMAKING

By the authority vested in the Missouri Family Trust Board of Trustees under section 402.210.6., RSMo 2000, the board of trustees rescinds a rule as follows:

21 CSR 10-1.010 General Organization **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2936). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 1—General Organization

ORDER OF RULEMAKING

By the authority vested in the Missouri Family Trust Board of Trustees under section 402.210.6., RSMo 2000, the board of trustees rescinds a rule as follows:

21 CSR 10-1.020 Definitions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2936). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 1—General Organization

ORDER OF RULEMAKING

By the authority vested in the Missouri Family Trust Board of Trustees under section 402.210.6., RSMo 2000, the board of trustees rescinds a rule as follows:

21 CSR 10-1.030 Meetings of the Board of Trustees **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2936). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 2—Missouri Family Trust

ORDER OF RULEMAKING

By the authority vested in the Missouri Family Trust Board of Trustees under section 402.210.6., RSMo 2000, the board of trustees rescinds a rule as follows:

21 CSR 10-2.010 Terms and Conditions of the Missouri Family Trust **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2936–2937). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 3—Charitable Trust

ORDER OF RULEMAKING

By the authority vested in the Missouri Family Trust Board of Trustees under section 402.210.6., RSMo 2000, the board of trustees rescinds a rule as follows:

21 CSR 10-3.010 Charitable Trust Regulations **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2937). No changes have been made in the proposed rescission,

so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 4—Fees

ORDER OF RULEMAKING

By the authority vested in the Missouri Family Trust Board of Trustees under section 402.210.6., RSMo 2000, the board of trustees rescinds a rule as follows:

21 CSR 10-4.010 Administrative Fees for Missouri Family Trust Accounts **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2937). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 4—Fees

ORDER OF RULEMAKING

By the authority vested in the Missouri Family Trust Board of Trustees under section 402.210.6., RSMo 2000, the board of trustees rescinds a rule as follows:

21 CSR 10-4.020 Administrative Fees for the Charitable Trust **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 15, 2011 (36 MoReg 2937–2938). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

22 CSR 10-2.091 Wellness Program Coverage, Provisions, and Limitations **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2769). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

22 CSR 10-2.094 Tobacco-Free Incentive Provisions and Limitations **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 1, 2011 (36 MoReg 2774–2775). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs, and other items required to be published in the *Missouri Register* by law.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

NOTIFICATION OF REVIEW: APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for May 7, 2012. These applications are available for public inspection at the address shown below:

Date Filed
Project Number: Project Name
City (County)
Cost, Description

02/23/12
#4757 HS: Research Belton Hospital
Belton (Cass County)
$1,512,670, Acquire Cardiac Catheterization/Vascular Lab

02/24/12
#4759 RS: Mount Carmel Senior Living
St. Charles (St. Charles County)
$3,642,500, Establish 30-bed ALF

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by March 23, 2012. All written requests and comments should be sent to—

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
3418 Knipp Drive, Suite F
Post Office Box 570
Jefferson City, MO 65102

For additional information contact
Karla Houchins, (573) 751-6403.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN ADDITION

Pursuant to section 376.1224, RSMo, regarding the maximum prescribed insurance benefit for the coverage of applied behavior analysis for the treatment of autism, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new maximum each year to adjust for inflation.

Using Consumer Price Index (CPI) for All Urban Consumers, as required by section 376.1224, RSMo, the new maximum required benefit was established by the following calculations:

Index Based on 1984 Dollars	
CPI for 2010	218.056
CPI for 2011	224.939

New ABA Mandated Maximum Benefit = 2011 Limit × (2011 Index/2010 Index)

$40,000 × (224.939/218.056) = $41,263

STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is a list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. In addition, this list includes contractor(s) that have agreed to placement on the list maintained by the Secretary of State pursuant to Section 290.330 as a part of the resolution of criminal charges of violating the Missouri Prevailing Wage Law. Under this statute, no public body shall award a contract for public works to any contractor or subcontractor, or simulation thereof, during the time that such contractor or subcontractor's name appears on this state debarment list maintained by the Secretary of State.

Contractors Convicted of Violations of the Missouri Prevailing Wage Law

Name of Contractor	Name of Officers	Address	Date of Conviction	Debarment Period
Rycoblake Corp. Case No. 0916-CR03145 (Jackson County Cir. Ct.)		4212 SE Saddlebrook Cir Lee's Summit, MO 64082	7/13/11	7/13/11 to 7/13/12

Contractors Agreeing to Placement on the Public Works Debarment List as Part of an Agreement Relating to Criminal Pleas

Name of Contractor	Name of Officers	Address	Date of Conviction	Debarment Period
Rycoblake Corp.		4212 SE Saddlebrook Cir Lee's Summit, MO 64082		7/13/11 to 12/1/12
Gerald Chevalier		4212 SE Saddlebrook Cir Lee's Summit, MO 64082		7/13/11 to 12/1/12

Dated this 2 day of August 2011.

Carla Buschjost

Carla Buschjost, Director

ADDITION TO STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is an addition to the list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works (1) to Mr. Saxon W. Johnson, (2) to any other contractor or subcontractor that is owned, operated or controlled by Mr. Saxon W. Johnson including The Tile Doctor or (3) to any other simulation of Mr. Saxon W. Johnson or of The Tile Doctor for a period of one year, or until September 2, 2012.

Name of Contractor	Name of Officers	Address	Date of Conviction	Debarment Period
Saxon W. Johnson DBA The Tile Doctor Case No. 10CA-CR01318 Cass County Cir. Ct.		10724 Haskins Ct Shawnee Mission, KS 66210	9/2/2011	9/2/2011-9/2/2012

Dated this 13 day of September 2011.

Carla Buschjost, Director

ADDITION TO STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is an addition to the list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works (1) to Mr. Larry G. McElroy, (2) to any other contractor or subcontractor that is owned, operated or controlled by Mr. Larry G. McElroy including Blackhawk or (3) to any other simulation of Mr. Larry G. McElroy or of Blackhawk Electric for a period of one year, or until December 27, 2012.

Name of Contractor	Name of Officers	Address	Date of Conviction	Debarment Period
Larry G. McElroy DBA Blackhawk Electric Case No. 11CG-CR01157 Cape Girardeau County Cir. Ct.		254 E. Lake Dr., PO Box 248 Cape Girardeau, MO 63701	12/27/2011	12/27/2011-12/27/2012

Dated this 26 day of January, 2012.

Carla Buschjost, Director

ADDITION TO STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is an addition to the list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works (1) to Mr. Norman Bass, (2) to any other contractor or subcontractor that is owned, operated or controlled by Mr. Norman Bass including Municipal Construction Incorporated or (3) to any other simulation of Mr. Norman Bass or of Municipal Construction Incorporated for a period of one year, or until February 1, 2013.

Name of Contractor	Name of Officers	Address	Date of Conviction	Debarment Period
Norman Bass DBA Municipal Construction Incorporated Case No. 12SO-CR00103 Scott County Cir. Ct.		10150 Hawthorne Ridge Goodrich, MI 48438	2/01/12	2/01/2012-2/01/2013

Dated this 17 day of February, 2012.

Carla Buschjost, Director

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to dissolutions@sos.mo.gov.

NOTICE OF DISSOLUTION AND

WINDING UP OF LIMITED LIABILITY COMPANY

On January 31, 2012, Pickett Enterprises, L.L.C. (the "Company") filed a Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State, effective on the filing date.

Any claims against the Company should be forwarded to J. Michael Pickett, 11133 Tattersall Trail, Oakton, VA, 22124.

The claim must include the following information: name, address and phone number of the claimant; amount of the claim; date the claim accrued or will accrue; a brief description of the nature of the debt or the basis for the claim; whether the claim is secured, and if so, the collateral used as security; and documentation to substantiate the claim.

You are further notified that all claims against the Company shall be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this Notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY

To: All creditors of and claimants against Thousand Hills at Branson Landing, L.L.C., a Missouri Limited Liability Company.

On Janaury 30, 2012, Thousand Hills at Branson Landing, L.L.C., a Missouri Limited Liability Company, Charter Number LC0792035, filed its notice of winding up with the Missouri Secretary of State.

Said limited liability company requests that all persons and organizations who have claims against it present them immediately by letter to the company at 245 S. Wildwood Drive, Branson, MO 65616.

All claims must include the following information:

1. Name and address of the claimant.
2. The amount claimed.
3. The clear and concise statement of the facts supporting the claim.
4. The date the claim was incurred.

NOTICE: Because of the winding up of Thousand Hills at Branson Landing, L.L.C., any claims against it will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of the three notices authorized by statute, whichever is published last.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST DRUMMOND MECHANICAL CONTRACTORS, INC.

On December 28, 2011, DRUMMOND MECHANICAL CONTRACTORS, INC., a Missouri corporation, filed its Articles of Dissolution with the Missouri Secretary of State, effective on the filing date.

All persons having claims against said corporation must present their claims immediately in writing and mail their claims to B. Daniel Simon, 601 E. Broadway, Ste. 203, Columbia, MO 65201. All claims must include the name, address and phone number of the claimant; the amount claimed; the basis for the claim; the date(s) on which the event(s) on which the claim is based occurred.

A claim against said corporation will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of this Notice.

**NOTICE OF DISSOLUTION AND WINDING UP
TO ALL CREDITORS OF AND CLAIMANTS
AGAINST LAPPE PARTNERS, L.P.**

On 17th day of January, 2012, Lappe Partners, L.P. a Missouri limited partnership, was dissolved upon the filing of a Certificate of Cancellation with the Secretary of State.

Said partnership requests that all persons and organizations who have claims against it present them immediately by letter to John A. Layton, Layton & Southard, LLC, P. O. Box 1238, Cape Girardeau, MO 63702-1238. All claims must include the claimant's name, address and telephone number, the amount, date and basis for the claim.

ANY CLAIMS AGAINST LAPPE PARTNERS, L.P. WILL BE BARRED UNLESS A PROCEEDING TO ENFORCE THE CLAIM IS COMMENCED WITHIN THREE YEARS AFTER THE LAST PUBLICATION DATE OF THE NOTICES AUTHORIZED BY STATUTE.

NOTICE OF WINDING UP AND DISSOLUTION OF LIMITED LIABILTY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST **THE WHITE SPACE, LLC**

Notice is hereby given that on February 6, 2012, The White Space, LLC, a Missouri limited liability company, filed Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. Persons with claims against the company must present them in accordance with the Notice.

You are hereby notified that if you believe you have a claim against The White Space, LLC, you must submit a summary of the circumstances surrounding your claim in writing to Mr. Charles S. Elbert, Esq., Kohn, Shands, Elbert, Gianoulakis & Giljum, LLP, 1 N. Brentwood, Suite 800, Clayton, Missouri 63105. The summary of your claim must include the following:

1. The name, address and telephone number of the claimant;
2. The amount of the claim;
3. The date the claim occurred;
4. A brief description of the nature of the debt or the basis for the claim; and,
5. Documentation in support of the claim.

You are further notified that all claims against The White Space, LLC, shall be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of the notice.