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SALUS POPULI SUPREMA LEX ESTO

*“The welfare of the people shall be the supreme law.”*



JASON KANDER  
SECRETARY OF STATE

MISSOURI  
REGISTER

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|--------------------------------------|--------------------------------------|----------------------------------|--------------------------------|
| February 1, 2013                     | <b>March 1, 2013</b>                 | March 31, 2013                   | April 30, 2013                 |
| February 15, 2013                    | <b>March 15, 2013</b>                | March 31, 2013                   | April 30, 2013                 |
| March 1, 2013                        | <b>April 1, 2013</b>                 | April 30, 2013                   | May 30, 2013                   |
| March 15, 2013                       | <b>April 15, 2013</b>                | April 30, 2013                   | May 30, 2013                   |
| April 1, 2013                        | <b>May 1, 2013</b>                   | May 31, 2013                     | June 30, 2013                  |
| April 15, 2013                       | <b>May 15, 2013</b>                  | May 31, 2013                     | June 30, 2013                  |
| May 1, 2013                          | <b>June 3, 2013</b>                  | June 30, 2013                    | July 30, 2013                  |
| May 15, 2013                         | <b>June 17, 2013</b>                 | June 30, 2013                    | July 30, 2013                  |
| June 3, 2013                         | <b>July 1, 2013</b>                  | July 31, 2013                    | August 30, 2013                |
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| July 1, 2013                         | <b>August 1, 2013</b>                | August 31, 2013                  | September 30, 2013             |
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| August 1, 2013                       | <b>September 3, 2013</b>             | September 30, 2013               | October 30, 2013               |
| August 15, 2013                      | <b>September 16, 2013</b>            | September 30, 2013               | October 30, 2013               |
| September 3, 2013                    | <b>October 1, 2013</b>               | October 31, 2013                 | November 30, 2013              |
| September 16, 2013                   | <b>October 15, 2013</b>              | October 31, 2013                 | November 30, 2013              |
| October 1, 2013                      | <b>November 1, 2013</b>              | November 30, 2013                | December 30, 2013              |
| October 15, 2013                     | <b>November 15, 2013</b>             | November 30, 2013                | December 30, 2013              |
| November 1, 2013                     | <b>December 2, 2013</b>              | December 31, 2013                | January 30, 2014               |
| November 15, 2013                    | <b>December 16, 2013</b>             | December 31, 2013                | January 30, 2014               |

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>

# Missouri Participating Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Documents Law (section 181.100, RSMo Supp. 2012), are available in the listed participating libraries, as selected by the Missouri State Library:

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| Jefferson College Library<br>1000 Viking Drive<br>Hillsboro, MO 63050-2441<br>(314) 789-3951 ext. 160   | Cape Girardeau Public Library<br>711 N. Clark<br>Cape Girardeau, MO 63701-4400<br>(573) 334-5279                                      | Library<br>North Central Missouri College<br>PO Box 111, 1301 Main Street<br>Trenton, MO 64683-0107<br>(660) 359-3948 ext. 325          | Lebanon-Laclede County Library<br>915 S. Jefferson Ave.<br>Lebanon, MO 65536-3017<br>(417) 532-2148                             |
| St. Louis Public Library<br>1301 Olive St.<br>St. Louis, MO 63103-2389<br>(314) 539-0376  | Kent Library<br>Southeast Missouri State University<br>One University Plaza<br>Cape Girardeau, MO 63701-4799<br>(573) 651-2757        | Spiva Library<br>Missouri Southern State University<br>3950 East Newman Road<br>Joplin, MO 64801-1595<br>(417) 625-9342                 | University Library<br>Southwest Baptist University<br>1600 University Ave.<br>Bolivar, MO 65613-2597<br>(417) 328-1631          |
| St. Louis University Law Library<br>3700 Lindell Blvd.<br>St. Louis, MO 63108-3478<br>(314) 977-2742  | Riverside Regional Library<br>PO Box 389, 1997 E. Jackson Blvd.<br>Jackson, MO 63755-0389<br>(573) 243-8141                           | Missouri State Library<br>600 West Main, PO Box 387<br>Jefferson City, MO 65102-0387<br>(573) 751-3615                                  | Barry-Lawrence Regional Library<br>213 6th St.<br>Monett, MO 65708-2147<br>(417) 235-6646                                       |
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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.

**T**he Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2012.

## EXECUTIVE ORDER 13-09

WHEREAS, Section 105.454(5), RSMo, requires the Governor to designate those members of his staff who have supervisory authority over each department, division or agency of the state government.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby designate the following members of my staff as having supervisory authority over the following departments, divisions or agencies:

|   |                       |
|---|-----------------------|
| Office of Administration  | Kristy Manning        |
| Department of Agriculture   | Michael Barrett       |
| Department of Conservation  | Peter Lyskowski       |
| Department of Corrections   | Edward R. Ardini, Jr. |
| Department of Economic Development  | Chris Pieper          |
| Department of Elementary and Secondary Education                              | Mike Nietzel          |
| Department of Health and Senior Services                                      | Peter Lyskowski       |
| Department of Higher Education  | Mike Nietzel          |
| Department of Insurance, Financial Institutions and Professional Registration | Chris Pieper          |
| Department of Labor and Industrial Relations                                  | Jeff Harris           |
| Department of Mental Health   | Mike Nietzel          |
| Department of Natural Resources   | Michael Barrett       |
| Department of Public Safety   | Edward R. Ardini, Jr. |
| Department of Revenue   | Peter Lyskowski       |
| Department of Social Services   | Mike Nietzel          |
| Department of Transportation  | Chris Pieper          |
| Missouri Housing Development Commission                                       | Brian May             |
| Boards Assigned to the Governor   | Chris Pieper          |
| Unassigned Boards and Commissions   | Chris Pieper          |



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 3<sup>rd</sup> day of May, 2013.

Jeremiah W. (Jay) Nixon  
Governor

ATTEST:

Jason Kander  
Secretary of State

**U**nder 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."

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

**A**n 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.

**I**f 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*.

**A**n 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.

**I**f 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 2—Practice and Procedure

#### PROPOSED AMENDMENT

*[4 CSR 265-2.068] 7 CSR 265-10.035 Application for a Self-Insurer Status*

*This rule is being moved to another department as well as being amended. The proposed amendment which also moves the rule can be found under the new rule number (7 CSR 265-10.035) in this issue of the Missouri Register. If you currently follow this rule through email notification you will need to update your selections by including the new rule number in your email notification selections.*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 2—Practice and Procedure

#### PROPOSED AMENDMENT

*[4 CSR 265-2.180] 7 CSR 265-10.140 Discontinuance of Service; Suspension and Revocation of Certificates and Permits*

*This rule is being moved to another department as well as being amended. The proposed amendment which also moves the rule can be found under the new rule number (7 CSR 265-10.040) in this issue of the Missouri Register. If you currently follow this rule through email notification you will need to update your selections by including the new rule number in your email notification selections.*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 2—Practice and Procedure

#### PROPOSED AMENDMENT

*[4 CSR 265-2.190] 7 CSR 265-10.090 Merger of Duplicated or Overlapping Motor Carrier Operating Authority*

*This rule is being moved to another department as well as being amended. The proposed amendment which also moves the rule can be found under the new rule number (7 CSR 265-10.090) in this issue of the Missouri Register. If you currently follow this rule through email notification you will need to update your selections by including the new rule number in your email notification selections.*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 6—Transportation

#### PROPOSED AMENDMENT

*[4 CSR 265-6.010] 7 CSR 265-10.055 Passenger Tariffs*

*This rule is being moved to another department as well as being amended. The proposed amendment which also moves the rule can be found under the new rule number (7 CSR 265-10.055) in this issue of the Missouri Register. If you currently follow this rule through email notification you will need to update your selections by including the new rule number in your email notification selections.*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 265—Division of Motor Carrier and Railroad Safety

#### Chapter 12—Motor Carriers

#### PROPOSED RESCISSION

**4 CSR 265-12.020 Uniform Systems of Accounts for Class B Motor Carriers of Household Goods and Passengers.** This rule

prescribed uniform systems of accounts for Class B common motor carriers of household goods and passengers.

**PURPOSE:** *This rule is being rescinded. The passage of Senate Bill 470 and House Bill 1402 signed by the governor effective August 28, 2012 vacated and set aside previous rate orders of the Highways and Transportation Commission or its predecessors that established or prescribed any minimum, maximum, or minimum-and-maximum rates for the transportation of household goods by common carriers in intrastate commerce. The Highways and Transportation Commission or its predecessors do not have any prescribed rates and charges in place for motor carriers transporting passengers for other than charter service in intrastate commerce. Uniform systems of accounts were established to require standard data retention for the sole purpose of determining an adequate rate of return in order to prescribe the level of rates and charges for the use of carriers' assets for public service. With the absence of any rates and charges being prescribed by the commission, this rule is no longer needed and should be rescinded.*

**AUTHORITY:** *section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Jan. 1, 1986. For intervening history, please consult the Code of State Regulations. Rescinded: Filed May 2, 2013.*

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

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

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 265—Division of Motor Carrier and Railroad Safety**

##### **Chapter 12—Motor Carriers**

##### **PROPOSED RESCISSION**

**4 CSR 265-12.030 Uniform System of Accounts for Class I Motor Carriers of Passengers.** This rule prescribed uniform systems of accounts for Class I common motor carriers of passengers.

**PURPOSE:** *This rule is being rescinded. The Highways and Transportation Commission or its predecessors do not prescribe rates and charges for motor carriers transporting passengers other than charter service in intrastate commerce. Uniform systems of accounts were established to require standard data retention for the sole purpose of determining an adequate rate of return in order to prescribe the level of rates and charges for the use of carriers' assets for public service. With the absence of any rates and charges being prescribed by the commission, this rule is no longer needed and should be rescinded.*

**AUTHORITY:** *section 622.027, RSMo 1994. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Jan. 1, 1986. For inter-*

*vening history, please consult the Code of State Regulations. Rescinded: Filed May 2, 2013.*

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

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

**NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### **Title 7—DEPARTMENT OF TRANSPORTATION**

##### **Division 265—Motor Carrier and Railroad Safety**

##### **Chapter 10—Motor Carrier Operations**

##### **PROPOSED AMENDMENT**

**7 CSR 265-10.010 Definitions.** The Missouri Highways and Transportation Commission is deleting section (1) and amending section (2).

**PURPOSE:** *This amendment modifies and adds definitions for terms used in Chapters 4 CSR 265-2 and 7 CSR 265-10, and Chapters 386, 387, and 390, RSMo.*

*[(1) Unless otherwise specifically provided, or unless the context clearly indicates otherwise, the provisions of 4 CSR 265-2.010 defining words and terms shall apply to and determine the meaning of all those words and terms as used in this chapter, and in Chapters 386, 387 and 390, RSMo.]*

*[(2)](1) As used in this chapter[,]; in 4 CSR 265-2; and in Chapters 386, 387, and 390, RSMo, unless the context clearly requires otherwise, the following words and terms mean:*

(A) Civil subdivision means a political subdivision, public corporation, or quasi-corporation, or public governmental entity, which is established by law exclusively for public purposes. The term includes every county, township, municipality, incorporated town and village; public school district; road district; library district; drainage; sewer or levee district; fire district; county sports complex authority; special taxing district for public works or public improvements; soil and water conservation district; watershed subdistrict; board of control of a public art museum; other public boards, commissions and districts established by law, and their officers, agents, and employees acting within the lawful scope of their official duties. The taxing power is not a prerequisite to being a civil subdivision, but possession of lawful taxing power creates a presumption that the possessor is a civil subdivision;

(B) Commission means the Missouri Highways and Transportation Commission.

*[(B)](C) Contract carrier means a person who engages in the transportation of passengers or property by motor vehicle upon the public highways for hire or compensation under individual, continuing contracts, or agreements. Contracts for the transportation of passengers or household goods shall meet [the following requirements:*

*1. The contract shall impose material bilateral obligations upon both the shipper and the carrier;*

*2. Under every contract or agreement for intrastate transportation service as a contract carrier, the carrier must*



provide some consideration beyond that which is required by law of a common carrier, such as dedicating specific equipment to the exclusive use of a shipper, or providing specialized equipment or services designed to meet the unique needs of the shipper;

3. The contract or agreement must specify the shipper's obligation to the contract carrier in terms of the quantity of service to be rendered, such as by the number of loads or tonnage of freight to be tendered to the carrier, which must be more than merely a nominal quantity, in order to distinguish the relationship from the unilateral agreement between a shipper and a common carrier. The quantity of service also may be stated in terms which require exclusive dealings between the contracting parties, or commit the shipper to tender all his/her output to the carrier, or commit the carrier to meet the entire transportation requirements of the shipper;

4. The contract or agreement for the transportation of passengers or household goods must either state an expiration date, or provide for cancellation by either party after not less than thirty (30) days' notice to the other contracting party and to the division;

5. The contract or agreement also must include either a statement of the rates to be charged, or a specific provision which incorporates by reference a schedule of rates, in writing, to be effective between the carrier and shipper.] the requirements as in Chapters 387 and 390, RSMo. The initial contract(s) for the transportation of passengers shall be filed with the commission along with the application for authority.

*AUTHORITY:* section 622.027, RSMo [1994] 2000. This rule originally filed as 4 CSR 265-10.010. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the *Code of State Regulations*. Amended: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.015 General Application Requirements for the Issuance and Transfer of Intrastate Motor Carrier Certificates, Permits and Temporary Authority.** This rule set forth the requirements that applications to the commission requesting an intrastate motor carrier certificate or permit must meet.

*PURPOSE:* This rule is being rescinded in order to amend the entire rule to reflect changes in application requirements for an intrastate motor carrier certificate, permit, or property carrier registration.

*AUTHORITY:* section 622.027, RSMo 2000 and section 226.008, RSMo Supp. 2012. This rule originally filed as 4 CSR 265-2.060.

Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RULE**

**7 CSR 265-10.015 Application Requirements for the Issuance and Transfer of Intrastate Motor Carrier Authority**

*PURPOSE:* This proposed rule sets forth the requirements that applications to the commission requesting an intrastate motor carrier certificate, permit, or property carrier registration must meet.

(1) Applicability. Every application for the issuance or transfer of a common carrier certificate under section 390.051, RSMo, a contract carrier permit under section 390.061, RSMo, or both; the issuance of temporary authority under section 390.081, RSMo; or a property carrier registration under Chapter 622, RSMo, which authorizes the transportation of passengers or property on the public highways in Missouri intrastate commerce shall be filed in conformity with the requirements of this rule and other rules of the commission whenever applicable.

(2) Application Form. The applicant, or an authorized representative of the applicant under oath or penalty of perjury shall complete, verify, and file an application using a form approved by the commission or the filing of required information through the commission's secured motor carrier web system.

(3) Required Documentation. The commission shall not consider for final determination the request of the applicant until the commission has received the following required documentation:

- (A) Completed application form;
- (B) Filing of proof of insurance in accordance with the requirements of section 390.126, RSMo, and commission rules 7 CSR 265-10.030 and 7 CSR 265-10.035;
- (C) Payment of vehicle licensing fees in accordance with section 390.136, RSMo, and commission rule 7 CSR 265-10.020;
- (D) Confirmation that the applicant is properly registered and in good standing as required by law with the Office of the Missouri Secretary of State;
- (E) Filed an approved tariff and time schedule for the transportation of passengers other than in charter service;
- (F) A completed form for the issuance of a USDOT number by the commission;
- (G) A copy of each executed contract for every contracting party listed in the application; and
- (H) Proof of workers' compensation coverage.

(4) Failure to File Required Documentation. If the applicant has failed to file the required documentation as set forth in section (3) of this rule within forty-five (45) days from the date the application has been received by the commission, the applicant will be notified that no further consideration will be taken upon the applicant's pending request for authority.

(5) Findings. The commission shall grant the application if the commission determines from the information filed by the applicant and any other information submitted to the commission that the applicant meets the applicable standards as required in sections 390.051, 390.061, 390.063, 390.081, or Chapter 622, RSMo.

(6) Request Denied. If the commission determines that the information on record concerning the applicant's request for authority does not meet the standards as required by law, the commission shall deny the application by notice to the applicant. The applicant may request in writing a hearing with the Missouri Administrative Hearing Commission to determine the merits of the application and the Administrative Hearing Commission shall make the final determination whether to grant the operating authority requested by the applicant.

(7) The commission shall dismiss on its motion any application for substantially the same common authority that has been previously denied within six (6) months of filing the subsequent application.

(8) Transfers—Commission staff's review of each proposed transfer of a certificate or permit shall include a consideration of how the proposed transfer will affect the transferor's and transferee's other operating authority, if any. In issuing the transfer request, commission staff shall apply the principles of merger with reference to duplicated or overlapping authority as provided in 7 CSR 265-10.090 or to correct spelling, typographical, grammatical, or format errors without altering the substance of the authority. If any objections are timely-filed to the commission concerning the certificate(s) or permit(s) issued and cannot be resolved, the matter will be sent to the Administrative Hearing Commission for a hearing and final determination.

*AUTHORITY:* section 622.027, RSMo 2000, and section 226.008, RSMo Supp. 2012. This rule originally filed as 4 CSR 265-2.060. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed May 2, 2013.

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

*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 Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.020 Licensing of Vehicles.** This rule prescribed the requirements and procedures for the licensing of vehicles operated on public highways in interstate or intrastate commerce within the jurisdiction of the commission.

*PURPOSE:* This rule is being rescinded in order to amend the entire rule to reflect changes impacting the jurisdiction of the commission to issue certain intrastate regulatory licenses pursuant to the passage of the Unified Carrier Registration Act of 2005 in sections 4301–4308 of Public Law 109-59. This act also eliminated the issuance of a credential via the Single State Registration Program for interstate operations through this state. The proposed rule will also be modified to add the verification of worker's compensation as required by the passage of Senate Bill 470 and House Bill 1402 and was reorganized to provide clarity and easier understanding of the remaining requirements.

*AUTHORITY:* sections 390.041(1), 390.138 and 622.027, RSMo 2000 and 226.008 and 390.136, RSMo Supp. 2012. This rule originally filed as 4 CSR 265-10.020. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RULE**

**7 CSR 265-10.020 Licensing of Vehicles**

*PURPOSE:* This proposed rule prescribes the requirements and procedures for the licensing of vehicles operated on public highways in interstate or intrastate commerce within the jurisdiction of the commission.

(1) License Requirement. No motor carrier shall operate any motor vehicle on the public highways in Missouri in intrastate commerce unless information has been received as required on the license application forms as published by the Missouri Highways and Transportation Commission, Motor Carrier Services Division; fees have been paid; and the annual license or seventy-two (72) hour license is carried in the vehicle. The mere presence of a regulatory license, issued by the commission or organization approved by the commission to sell its regulatory licenses on its behalf, on a vehicle does not authorize any person to operate as a motor carrier. Exceptions: Not-for-profit corporations transporting passengers other than charter service and every motor carrier required to comply with the regulatory requirements of the Unified Carrier Registration

(UCR) Agreement promulgated by the Unified Registration Board of Directors are not required to comply with this rule.

(2) Invalid License. Any license which has been altered or changed in any way shall not be valid.

(3) Expiration of Regulatory Licenses. All annual regulatory licenses issued pursuant to this rule shall be effective from January 1 through December 31 of the year for which they are issued, and shall expire at 12:01 A.M. on the first day of January in the next year succeeding the year for which they were issued. Seventy-two (72) hour licenses expire seventy-two (72) hours from the issued time of the license.

(4) Transfer of Regulatory Licenses. If the vehicle is sold during a license year, the commission may reissue without charge, upon request by the transferor, the annual license for any replacement vehicle purchased by the motor carrier. The regulatory license will not be valid for the transferee of the vehicle.

(5) Failure to Purchase an Annual License—The commission may immediately suspend the intrastate authority of the motor carrier in accordance with the commission's applicable procedures for suspension, for failure to purchase an annual license. Any further operation by the motor carrier of any motor vehicle upon the public highways in this state shall be unlawful until compliance with this rule and a reinstatement by the commission has been issued.

*AUTHORITY:* sections 390.041(1), 390.138, and 622.027, RSMo 2000, and sections 226.008 and 390.136, RSMo Supp. 2012. This rule originally filed as 4 CSR 265-10.020. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed May 2, 2013.

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

*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 Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.025 Marking of Vehicles.** This rule, which includes portions of 4 CSR 265-10.020, prescribed the content and manner of markings to be displayed on motor vehicles operated by motor carriers on public highways and interstate or intrastate commerce within the jurisdiction of the division.

*PURPOSE:* This rule is being rescinded in order to amend the entire rule to prescribe the content and manner of markings to be displayed on motor vehicles operated by motor carriers on public highways in

interstate or intrastate commerce that are under the jurisdiction of the Missouri Highways and Transportation Commission.

*AUTHORITY:* section 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-10.025. Emergency rule filed Dec. 1, 1994, terminated Dec. 19, 1994. Emergency rule filed Dec. 20, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 20, 1995, effective May 1, 1995, expired Aug. 28, 1995. Emergency rule filed Aug. 18, 1995, effective Aug. 29, 1995, expired Feb. 24, 1996. Original rule filed Aug. 3, 1995, effective Feb. 25, 1996. Amended: Filed Aug. 5, 1999, effective March 30, 2000. Moved to 7 CSR 265-10.025, effective July 11, 2002. Rescinded: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RULE**

**7 CSR 265-10.025 Marking of Vehicles**

*PURPOSE:* This proposed rule prescribes the content and manner of markings to be displayed on motor vehicles operated by motor carriers on public highways in interstate or intrastate commerce that are under the jurisdiction of the Missouri Highways and Transportation Commission.

(1) Vehicle Markings. Every motor vehicle operated by a motor carrier in intrastate commerce under any property carrier registration, certificate, or permit issued by the Missouri Highways and Transportation Commission shall be marked in conformity with the requirements of section 390.21 of Title 49, *Code of Federal Regulations* (CFR), or if applicable, subpart D of Title 49, CFR part 390. The commission incorporates by reference in, and makes a part of this rule, the provisions of Title 49, CFR Part 390 as published by the United States Government Printing Office, 732 North Capitol Street NW, Washington DC 20401, on April 1, 2011. This rule does not incorporate any subsequent amendments or additions to 49 CFR Part 390. Exceptions: Motor carriers transporting motor vehicles in driveway or towaway operations may display the markings on both sides or at the rear of a single driven vehicle. Motor carriers transporting a combination of vehicles in driveway or towaway operations may display the prescribed markings on both sides of any one (1) of the units comprising the combination, or at the rear of the rearmost unit of this combination. Motor carriers operating a passenger carrying vehicle having a capacity of twelve (12) passengers or less, excluding the driver, may display on the vehicle's rear bumper, rear window, or otherwise on the rear of the vehicle, the USDOT number assigned to the motor carrier, which shall be marked in readily legible figures not less than two inches (2") in height, which shall contrast sharply in color with the background on which the figures are placed.

(2) If the carrier is engaged in intrastate operations only as authorized by the commission, the carrier is required to include in the vehicle markings the letters "MO" immediately following the carrier's USDOT number.

(3) If an intrastate motor carrier sells, assigns, or otherwise transfers a motor vehicle subject to the provisions of this rule, the seller shall first remove its required markings from the vehicle.

*AUTHORITY:* section 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-10.025. Emergency rule filed Dec. 1, 1994, terminated Dec. 19, 1994. Emergency rule filed Dec. 20, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 20, 1995, effective May 1, 1995, expired Aug. 28, 1995. Emergency rule filed Aug. 18, 1995, effective Aug. 29, 1995, expired Feb. 24, 1996. Original rule filed Aug. 3, 1995, effective Feb. 25, 1996. Amended: Filed Aug. 5, 1999, effective March 30, 2000. Moved to 7 CSR 265-10.025, effective July 11, 2002. Rescinded and readopted: Filed May 2, 2013.

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

*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 Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.030 Insurance.** This rule defined and described the procedures, forms, and authorization for filing, canceling, replacing, and reinstating proof of motor carrier insurance or surety bonds, and prescribed the minimum limits of public liability coverage for motor carriers of passengers or property, and minimum limits of cargo liability coverage for household goods carriers.

*PURPOSE:* This rule is being rescinded in order to amend the entire rule to reflect changes to define and describe the procedures and authorization for filing, canceling, replacing, and reinstating proof of motor carrier insurance or surety bonds, and prescribes the minimum limits of public liability coverage for motor carriers of passengers or property, and minimum limits of cargo liability coverage for household goods carriers.

*AUTHORITY:* sections 390.041, 390.126, 390.128, and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-10.030. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RULE**

**7 CSR 265-10.030 Insurance**

*PURPOSE:* This proposed rule defines and describes the procedures and authorization for filing, canceling, replacing, and reinstating proof of motor carrier insurance or surety bonds, and prescribes the minimum limits of public liability coverage for motor carriers of passengers or property, and minimum limits of cargo liability coverage for household goods carriers.

(1) Proof of Coverage and Minimum Limits of Public Liability for Intrastate Carriers. Every motor carrier operating any motor vehicle in intrastate commerce by authority of the commission shall at all times have on file with and approved by the commission proof of public liability insurance or bond for the limits of liability as required by the commission. The proof of public liability insurance shall state that the insurer has issued to the motor carrier a policy of insurance which by endorsement provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon the motor carrier by the provisions of the laws of this state. A completed and executed endorsement shall be attached to the public liability insurance policy and form a part of it and amends the insurance policy to which it is attached to assure compliance with this rule by the motor carrier. A true copy of the insurance policy with the endorsement attached shall be maintained at the motor carrier's principal place of business, and produced upon request for inspection by the commission. An executed surety bond may be accepted in lieu of a certificate of public liability insurance.

(2) Filing Proof of Insurance. The insurance company or its authorized underwriter shall file proof of insurance on behalf of a motor carrier using forms approved by the commission or the filing of required information through the commission's secured motor carrier web system. Upon request of the commission, any insurance company that has filed or offers to file proof of insurance shall furnish evidence satisfactory to the commission that the insurance company issuing the policy or bond is duly authorized to transact business in Missouri and to issue the policy offered, and that it is financially able to meet its obligations.

(3) Proof of Coverage of Cargo Liability for Transportation of Household Goods. Each vehicle while transporting household goods in intrastate commerce within this state shall be covered by a surety bond or certificate of cargo insurance filed with and approved by the commission for the limits of liability as established by the commission. A completed and executed endorsement shall be attached to the cargo insurance policy and form a part of it and amend the policy to which it is attached to assure compliance with this rule by the motor carrier. An insurance company or surety shall file separate certificates or bonds, whenever it provides both cargo liability and public liability coverage for a motor carrier of household goods.

(4) Rejection of Proof of Insurance. The commission may reject any document or information filed or offered for filing, or may declare it invalid at any time, and shall notify the motor carrier of the rejection.

(5) Cancellation and Reinstatement of Proof of Insurance. An insurer shall give the commission not less than ten (10) days notice of the cancellation of motor carrier bodily injury and property damage liability insurance certificate or bond or motor carrier cargo insurance certificate or bond, by filing with the commission the required notice of cancellation form. After cancellation in accordance with this section, a new certificate of insurance or surety bond must be filed to reinstate coverage for the motor carrier.

(6) Replacement Coverage. Policies of insurance and surety bonds may be replaced by other policies of insurance or surety bonds. The liability of the retiring insurer or surety shall be considered terminated on the effective date of the replacement policy of insurance or surety bond if accepted by the commission; except that if a cancellation notice under section (5) of this rule is received prior to receipt of the replacement certificate of insurance or surety bond, the liability of the retiring insurer or surety shall be considered as terminated at the end of the required ten (10) day cancellation period.

*AUTHORITY: sections 390.041, 390.126, 390.128, and 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-10.030. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed May 2, 2013.*

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

*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 Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title [4—DEPARTMENT OF ECONOMIC DEVELOPMENT] 7—DEPARTMENT OF TRANSPORTATION**

**Division 265—[Division of] Motor Carrier and Railroad Safety**

**Chapter [2—Practice and Procedure] 10—Motor Carrier Operations**

**PROPOSED AMENDMENT**

*[4 CSR 265-2.068] 7 CSR 265-10.035 Application for a Self-Insurer Status.* The Missouri Highways and Transportation Commission is removing the Editor's Note; amending sections (1), (2), and (3); removing section (4); renumbering section (5); and moving the rule to Title 7 Department of Transportation.

*PURPOSE: This proposed amendment updates references and removes sections no longer applicable to obtain self-insurer status.*

(1) Motor carriers operating in intrastate commerce *[or interstate commerce exempt from Interstate Commerce Commission (ICC) jurisdiction]* filing an application for authority to become a

self-insurer shall file the original and one (1) copy of the application with the director of the division. Every application shall include a completed Application **For Self-Insurer Status** Form *[MO 419-1797]* and, whenever applicable, shall include completed Exhibits A, B, C, D, and E, as described in the application form. The application may include additional supporting information, which shall not repeat or duplicate the information required in Application **For Self-Insurer Status** Form *[MO 419-1797]* or Exhibits A, B, C, D, and E. Photocopies of the form and exhibits are acceptable, if they are clearly legible.

(2) Except as provided in section (3) *[or (4)]* of this rule, each motor carrier who has been granted authority by this division to be a self-insurer shall file, within sixty (60) days after the close of the previous calendar year, a balance sheet, income statement, and a statement listing any claims filed against the motor carrier which arose out of any accidents the motor carrier was involved in during its operations in the previous calendar year, and any unresolved claims which arose out of accidents during previous years. For each claim listed, the applicant shall state the amount, nature, and status of the claim including whether it is disputed or undisputed and how much of it remains unpaid.

(3) Any carrier whose self-insurance plan has been approved by the *[Interstate Commerce Commission (ICC)]* **Federal Motor Carrier Safety Administration (FMCSA)** shall file with this division—

(A) The *[ICC]* **FMCSA** order approving its self-insurance plan; and

(B) Immediate notice of any proceeding or action by the *[ICC]* **FMCSA** which could result in the suspension, revocation, or termination of its self-insurance plan.

*[(4) Applications for self-insurance of interstate motor carrier operations authorized by a certificate or permit issued by the ICC shall be made as required by the Single State Registration System (SSRS) Procedures Manual, which is adopted by the division. Except as otherwise specifically provided in this chapter or 4 CSR 265-10 with reference to operations under ICC authority, the SSRS Procedures Manual shall govern the registration, licensing, proof of insurance coverage and designation of process agents of all vehicles operated in Missouri under ICC authority.]*

*[(5)](4)* Failure of a carrier to comply with the provisions of section (2) or (3) of this rule shall result in revocation of *[this division's]* **the commission's** approval of the carrier's self-insurance plan.

*AUTHORITY: section 622.027, RSMo [1994] 2000. This rule originally filed as 4 CSR 265-2.068. Emergency rule filed Aug. 1, 1986, effective Aug. 13, 1986, expired Oct. 23, 1986. Original rule filed July 31, 1986, effective Oct. 27, 1986. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed May 2, 2013.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.040 Motor Vehicle Leasing.** This rule prescribed requirements to properly identify leased motor vehicles and drivers when they are operated under authority issued by the commission, to ensure that leased vehicles operated by motor carriers are safely equipped, maintained, and operated, and properly insured and licensed, and to prevent the evasion of motor carrier regulatory requirements through regulating the leasing of motor vehicles under certain circumstances.

*PURPOSE: This rule is being rescinded in order to amend the entire rule to prescribe requirements to properly identify leased motor vehicles and drivers when they are operated under authority issued by the commission, to ensure that leased vehicles operated by motor carriers are safely equipped, maintained and operated, and properly insured and licensed, and to prevent the evasion of motor carrier regulatory requirements through regulating the leasing of motor vehicles under certain circumstances.*

*AUTHORITY: section 622.027, RSMo [1994] 2000. This rule originally filed as 4 CSR 265-10.040. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Rescinded: Filed May 2, 2013.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RULE**

**7 CSR 265-10.040 Motor Vehicle Leasing**

*PURPOSE: This proposed rule prescribes requirements to properly identify leased motor vehicles and drivers when they operate under authority issued by the commission, to ensure that leased vehicles operated by motor carriers are safely equipped, maintained, and operated, and properly insured and licensed, and to prevent the evasion of motor carrier regulatory requirements through regulating the leasing of motor vehicles under certain circumstances.*

(1) Definitions.

(A) "Lessee" means the person who received possession and control of the vehicle.

(B) "Lessor" means the vehicle's titled owner or lessee who subleases to another lessee.

(2) Motor carriers shall not transport passengers or property in

intrastate commerce in non-owned motor vehicles unless there is in place an executed lease for each motor vehicle operated by the motor carrier in intrastate commerce which conforms to the following requirements:

(A) The lease must be reduced to writing and executed with one (1) copy retained by the lessee for not less than two (2) years after the expiration of the lease; and one (1) copy shall accompany the driver while the leased vehicle is in operation and available for inspection by any official authorized to enforce the motor vehicle or transportation laws of this state;

(B) The terms of the lease shall identify the lessor and lessee; describe the leased vehicle including the year, make, model, vehicle identification number, license plate number, and licensing state; specify the beginning and ending duration of the lease; specify the payment terms; and provide all the surrounding facts that the leased equipment is exclusively committed to the lessee's use during the term of the lease; and

(C) Except when a vehicle is subleased by a motor carrier in compliance with section (5) of this rule, the lessee shall control all transportation of passengers or property performed in the leased vehicle during the term of the lease and be deemed the sole operator of the motor vehicle unless otherwise agreed upon by the lessee; be responsible for the operation of the vehicle, including its equipment, physical condition, insurance coverage, licensing, markings, drivers, drivers' qualifications, drivers' hours of service, and all other related matters in conformity with the applicable laws of this state and the rules of the commission, to the same extent as if the lessee were the actual owner of the vehicle; immediately upon the termination of the lease or sublease of the vehicle, remove or obliterate all the lessee's markings from the vehicle; and immediately remove the cancelled lease from the vehicle if the lease is cancelled prior to the expiration date.

(3) If the lessee motor carrier knowingly or recklessly fails to control the transportation performed in the leased vehicle, then the transportation is not covered and authorized by the lessee's operating authority and the lessee motor carrier shall be deemed to be procuring, aiding, and abetting any transportation performed in the leased vehicle during the term of the lease.

(4) Motor carriers shall not lease vehicles with or without drivers to shippers or receivers of property or to passengers or chartering groups.

(5) Motor carriers shall not sublease a leased vehicle, with or without driver, unless the lease expressly authorizes the lessee motor carrier to sublease the vehicle to another authorized motor carrier during the lease. The sublease shall not authorize further subleasing of the vehicle to any person. A copy of the sublease and the original lease shall accompany the driver at all times while the vehicle is in operation, and be available for inspection.

(6) Authorized household goods motor carriers may transport household goods in motor vehicles owned or leased by the carrier's agent under an agency agreement in compliance with 7 CSR 265-10.050 and the Household Goods Tariff Circular No. 1-2013.

(7) This rule does not authorize the leasing of any certificate, permit, or operating authority unless the leasing is approved by order of the commission as a transfer of authority under section 390.111, RSMo.

(8) Whenever a person who is not authorized by the commission to engage in intrastate transportation leases its own equipment—

(A) With or without driver, to an authorized intrastate motor carrier and the lease or any motor vehicle operations during the term of the lease do not actually comply with all the requirements of this rule, then those operations are not covered and not authorized by the lessee's operating authority; or

(B) With driver to a shipper, receiver, passenger, or chartering group, the lessor's intrastate transportation under that lease shall be

presumed to result in private carriage by the lessee if the lease and all operations under it, comply with section (2) of this rule and the term of the lease is not less than thirty (30) consecutive days. If a lease or other arrangement between a shipper, receiver, passenger, or chartering group and the owner of a motor vehicle who is not authorized by the commission to engage in intrastate transportation does not comply with these requirements, then the lessor's motor vehicle operations shall not be presumed to be private carriage by the lessee.

*AUTHORITY: section 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-10.040. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed May 2, 2013.*

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

*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 Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED AMENDMENT**

**7 CSR 265-10.045 Passenger Service Requirement.** The Missouri Highways and Transportation Commission is amending sections (1), (2), (3), and (4).

*PURPOSE: The proposed amendment prescribes certain service requirements for motor carriers of passengers.*

(1) Motor carriers of passengers shall keep all passenger-carrying vehicles in a clean and sanitary condition while in operation. *They* and shall provide and maintain adequate restrooms and facilities, or shall stop at locations with *adequate* public restrooms *and facilities* that are clean and sanitary, at sufficient intervals and for sufficient periods of time for the reasonable accommodation of passengers. *The restrooms and facilities provided or selected by the carrier shall be clean and well lighted, in a sanitary condition, and reasonably comfortable for the use of the traveling public.*

(2) Each passenger-carrying vehicle operated intrastate over a regular route or between fixed terminals shall have attached to the front of the vehicle a sign, with letters or figures not less than four inches (4") in height, designating the destination of the vehicle. *Vehicles operated other than over a regular route or between fixed terminals shall have no signs, letters or other matter that would be interpreted in any manner as solicitation of passengers or freight for a particular destination or for transportation over a route for which a certificate has been granted for transportation of persons or property over a regular route or between fixed terminals. In no case shall any vehicle have on the windshield, rear windows or windows on either side of the operator any lettering, papers or other matter that obstructs or interferes with the view of the operator.*

(3) *[Except as provided in this section, no driver or operator of any motor vehicle used in the transportation of passengers in common carrier operations shall refuse to carry any person offering him/herself at any regular stopping place for carriage who tenders the regular fare to any regular stopping place on the route of the vehicle, or between the terminals, if under the certificate for that route the carrier is allowed to carry passengers to that point, unless at the time of the offer the vehicle is loaded to capacity.]* The driver or operator of any motor vehicle may refuse transportation to any person if that person:—

- (A) Is intoxicated, using profane language or behaving in a *boisterous or* disorderly manner;
- (B) Affected with a contagious disease;
- (C) Presenting an unsanitary condition so as to unduly annoy other passengers; *or*
- (D) Aged under six (6) years and unaccompanied by an adult.];
- (E) Has not paid the regular fare; or**
- (F) Causes the vehicle to exceed its loaded capacity.**

(4) Passenger vehicles used under a certificate or permit authorizing the transportation of passengers and their baggage must be equipped to carry and properly shelter the baggage of the passengers. No carrier shall be bound to accept baggage in excess of fifty (50) pounds per passenger in weight of six (6) cubic feet per passenger in volume. *[A motor carrier authorized to transport passengers and their baggage shall issue without charge a baggage check to each passenger offering baggage to be transported and shall transport the baggage from origin to destination of the passenger. The carrier shall attach to the baggage a duplicate of the check given to the passenger on which shall be written or printed the destination of the passenger.]*

*AUTHORITY: section 622.027, RSMo [1994] 2000. This rule originally filed as 4 CSR 265-10.045. Emergency rule filed Dec. 1, 1994, terminated Dec. 19, 1994. Emergency rule filed Dec. 20, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 20, 1995, effective May 1, 1995, expired Aug. 28, 1995. Emergency rule filed Aug. 18, 1995, effective Aug. 29, 1995, expired Feb. 24, 1996. Original rule filed Aug. 3, 1995, effective Feb. 25, 1996. Moved to 7 CSR 265-10.045, effective July 11, 2002. Amended: Filed May 2, 2013.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED AMENDMENT**

**7 CSR 265-10.050 Tariffs, Time Schedules, and Motor Carrier Documentation.** The Missouri Highways and Transportation Commission is amending and/or deleting sections (1)–(11) to make sections (1)–(7).

*PURPOSE: This proposed amendment prescribes certain requirements for the keeping, application, and interpretation of certain motor carrier documents including tariffs, c.o.d. records, bills of lading, expense or freight bills, manifests, delivery receipts, time schedules, certificates, permits, and claim registers.*

(1) **Tariff Publication.** Every common carrier, *[to the extent it is]* authorized by the commission to engage in intrastate transportation of passengers *[or] other than in charter service shall publish and file with the commission its tariffs specifying its rates and charges. Every common carrier engaged in intrastate transportation of household goods between points in Missouri, shall maintain and publish [and file with the commission and] its tariffs specifying its rates and charges. Also, such carriers shall keep for public inspection at each of their terminals, tariffs [schedules] specifying their rates and charges and which shall—*

*[(A) Indicate definitely and clearly the scope of the carrier's authority as granted in the certificate of convenience and necessity issued to the carrier;]*

*[(B)](A) Conform, [if filed] when published by common carriers of household goods to [rules] the requirements contained in [7 CSR 265-10.120 and any tariff schedule not conforming to the rules may be rejected;] the Household Goods Tariff Circular No. 1-2013, available at [www.modot.org/movinginmissouri](http://www.modot.org/movinginmissouri);*

*[(C)](B) Conform, if filed upon not less than one (1) day's notice by common carriers of passengers other than in charter service and their baggage, to the rules contained in [4 CSR 265-6.010 and in any tariff schedule and the tariffs schedules of any common carrier not conforming to the rules, may be rejected] 7 CSR 265-10.055; and*

(C) Any tariff not conforming to the rules, regulations, or rate orders issued by the commission or its predecessors or the applicable tariff circular may be rejected or suspended by the commission and the common carrier shall have thirty (30) days from the date of suspension to request a hearing before the Administrative Hearing Commission.

*[(D) Be published and filed, by common carriers of passengers or household goods to specify the initial rates and charges for service under a certificate newly acquired by original grant or transfer, with the commission upon not less than one (1) day's notice. This permission to file and publish tariff, including supplements where otherwise permitted by commission rules, upon less than thirty (30) days' notice is ordered for good cause under section 387.070, RSMo to eliminate needless delays for common carriers in beginning service to the public under newly acquired authority, notwithstanding any provision of 4 CSR 265- 6.010 or 7 CSR 265-10.120 to the contrary.*

(2) After the commission has ordered a minimum, maximum or prescribed rate for the transportation of property or passengers, a motor carrier may not lawfully charge for its transportation of property or passengers a rate which is less than the minimum or prescribed rate, or more than the maximum or prescribed rate, unless expressly approved by a later order of the commission, or pursuant to a periodic rate adjustment approved by the commission as provided in section 387.075, RSMo. A carrier may seek the commission's approval by either of the following methods:

(A) By filing and receiving commission approval of an application seeking rate relief in accordance with the provision of section 390.062, RSMo; or

(B) By filing a tariff that proposes the new rate, after which the commission may suspend the tariff and require notice and opportunity for hearing as provided in 387.200, RSMo.

(3) Unless otherwise ordered by the commission, rates and charges for household goods transportation wholly within a municipality or between contiguous municipalities, or wholly within a commercial zone shall not be based on distance rates.

(4) A common carrier of household goods shall collect its lawful freight charges prior to or at the time of the delivery of the shipment(s), on which the charges have accrued. This shall not be construed to prohibit any common carrier from extending credit in connection with rates and charges on freight transported for the United States, or any department, bureau or agency of the United States, or for Missouri, or any department, bureau or agency of Missouri. Upon taking precautions deemed by them to be sufficient to assure payment of the tariff charges within the credit period specified, common carriers of household goods may relinquish possession of freight in advance of the payment of the tariff charges and may extend credit in the amount of the charges to those who undertake to pay them, these persons being called shippers for a period of fifteen (15) days, excluding Saturdays, Sundays and legal holidays. When the freight bill covering a shipment of household goods is presented to the shipper on or before the date of delivery, the credit period shall run from the first twelve o'clock midnight (12:00 a.m.) following delivery of the freight. When the freight bill is not presented to the shipper on or before the date of delivery, the credit period shall run from the first twelve o'clock midnight (12:00 a.m.) following the presentation of the freight bill. Where a common carrier of household goods has relinquished possession of freight and collected the amount of tariff charges presented by it as the total amount of the charges and another freight bill for additional freight charges is presented to the shipper, the carrier may extend credit in the amount of the additional charges for a period of thirty (30) calendar days, to be computed from the first twelve o'clock midnight (12:00 a.m.) following the presentation of the subsequently presented freight bill. Freight bills for all household goods transportation charges shall be presented to the shippers within seven (7) calendar days from the first twelve o'clock midnight (12:00 a.m.) following delivery of the freight. Shippers may elect to have their freight bills presented by means of the United States mail, and, when the mail service is so used, the time of mailing by the carrier shall be deemed to be the time of presentation of the bills. The mailing by the shipper of valid checks, drafts or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period allowed the shipper may be deemed to be the collection of the tariff rates and charges within the credit period for the purpose of this rule. In case of dispute as to any time of mailing, the postmark shall be accepted as showing the time.

(5) The following shall apply to the handling of cash on delivery (C.O.D.) shipments of household goods:

(A) This section applies to the transportation by motor vehicle of C.O.D. shipments by all common carriers of household goods except transportation which is auxiliary to or supplemental of transportation by railroad and performed on railroad bills of lading;

(B) No common carrier of household goods shall render any C.O.D. service unless the carrier has published posted and filed tariffs which contain the rates, charges and rules governing that service, which rules shall conform to these regulations;

(C) Every common carrier of household goods shall remit each C.O.D. collection directly to the consignor or other person designated by the consignor as payee promptly and



within ten (10) days after delivery of the C.O.D. shipment to the consignee. If the C.O.D. shipment moved in interline service, the delivering carrier, at the time of remittance of C.O.D. collections to the consignor or payee, shall notify the originating carrier of the remittance; and

(D) Every common carrier handling C.O.D. shipments of household goods as a delivery carrier shall maintain a record of all C.O.D. shipments received for delivery in a manner and form as plainly and readily will show the following information with respect to each shipment:

1. Number and date of freight bill;
2. Name and address of shipper or other person designated as payee;
3. Name and address of consignee;
4. Date shipment delivered;
5. Amount of C.O.D.;
6. Date collected by delivering carrier;
7. Date remitted to payee; and
8. Check number or other identification of remittance to payee.

(6) An invoice or billing statement shall be issued for each shipment of household goods transported by a common carrier. No specific form is prescribed, but this bill when presented to consignee and to consignor when charges are pre-paid shall include within its written or printed terms the following information with respect to the covered shipment:

- (A) Name of shipper and point of origin;
- (B) Name of consignee and destination;
- (C) Date of shipment;
- (D) An adequate description of property transported;
- (E) Weight of the shipment, if applicable;
- (F) Rate(s) charged for the service;
- (G) Any other charge incident to the transportation and sufficient information in connection with the charge to enable verification of the accuracy of that charge; and
- (H) Name of transfer point(s) and name or initial of each carrier participating in the haul when transportation is performed jointly by two (2) or more carriers.]

[(7)](2) **Expense Bill Information.** Every common motor carrier of passengers providing intrastate charter service shall issue an expense bill for each chartering group's trip, containing the [following] information **required by the commission**[:].

- [(A)] Serial number, consisting of one (1) of a series of consecutive whole numbers assigned in advance and imprinted on the bill;
- [(B)] Name of carrier;
- [(C)] Name of the chartering group for which transportation is performed and, if different, the payer for the transportation service;
- [(D)] Date(s) transportation is performed;
- [(E)] Origin, destination and general routing of trip;
- [(F)] Identification and seating capacity of each vehicle used;
- [(G)] Name of each driver transporting the group;
- [(H)] Mileage upon which charges are based, including any deadhead mileage, separately noted; and
- [(I)] The total and itemized rates and charges for the transportation, and any other charges incidental to the transportation.]

[(8)] Except as otherwise provided in this rule, the driver of each vehicle operated by any common carrier of household goods shall have possession, for inspection upon demand by any law enforcement officer or authorized inspector, of a bill of lading as required under 7 CSR 265-10.080(3) for each

shipment of household goods being transported listing all shipments of household goods on the vehicle.]

[(9)](3) **Record Retention.** A copy of all expense bills, delivery receipts, and any other shipping records or passenger trip records issued by a motor carrier subject to the commission's jurisdiction, with reference to transportation by motor vehicles within Missouri,] shall be kept on file in the Missouri office of the carrier issuing the shipping records for not less than two (2) years after the date of issuance [of the shipping records]. Each common carrier of passengers in charter service shall maintain a complete file of consecutively numbered expense bills for inspection and audit by the commission.

[(10)](4) **Time Schedules.** Every regular route common carrier of passengers **other than in charter service** shall publish, post, and file time schedules in [accordance with] the [following:] **format and with the required information as determined by the commission.**

[(A)] Time schedules shall be printed or typewritten on good quality paper size eight and one-half by eleven inches (8 1/2" x 11");

[(B)] The title page must be made up as follows:

1. Time schedules must be numbered consecutively beginning with number one (1) and must show the number of the time schedule, if any, cancelled thereby. The number shall be shown in the upper right-hand corner;
  2. Name of the passenger carrier;
  3. The terminals or points between which the time schedule applies briefly stated;
  4. Date issued and date effective; and
  5. The name, title and address of the official issuing the time schedule, including street address;
- [(C)] The time schedule must show—

1. The time of arrival at and departure from all terminals and the time of departure from intermediate points between terminals;
2. The distance between all points shown in the time schedule; and
3. Points at which vehicles do not regularly stop, except on signal or under other conditions, with proper indication of service rendered at that point. Regular rest stops must also be indicated;

[(D)] Two (2) copies of all time schedules shall be filed with the commission; one (1) copy shall be posted in a conspicuous place at each station or stopping place affected; and one (1) copy shall be in the possession of the driver operating the vehicle;

[(E)] All time schedules shall be filed with the commission and shall be posted at each station or stopping place as required by subsection (10)(D), at least fifteen (15) days before the date upon which they are to become effective, unless otherwise authorized by the commission. In case of actual emergency or for other good cause shown, the commission may permit a time schedule to be filed and posted on less than fifteen (15) days' notice, in which case the time schedule must show on its title page, directly under the effective date, the number and date of the special authority or order of the commission permitting the short notice filing and posting; and

[(F)] Time schedules received for filing too late to give the commission fifteen (15) days' notice or a shorter notice as may otherwise be authorized, or which do not refer to the number and date of the special authority or order for the short notice, will not be accepted for filing.]

[(11)] Where a motor carrier of household goods is authorized to serve a city, town, municipality or village in regular route

service, the authority shall include the commercial zone of the city, town, municipality or village subject to the following—

(A) Where a motor carrier of household goods is authorized to serve an unincorporated community as a regular route point, those points shall include the area within two (2) miles of the point;

(B) Where a motor carrier of household goods is authorized to serve regular route points designated as specific businesses, such as a grocery, filling station, cafe, or the like, plant or industrial site, highway intersections, these limited grants do not imply a commercial zone;

(C) A grant of irregular route authority to a motor carrier does not include any authority to serve any point located outside the geographic scope of that irregular route as described in the carrier's certificate or permit. A carrier is not authorized to serve any point outside the described irregular route merely because that point is within a city, town, municipality, village, commercial zone, unincorporated community or surrounding area which includes other points that are located within the described irregular route; and

(D) A grant of irregular route authority to transport household goods wholly within a commercial zone does not authorize the carrier to operate anywhere outside the boundary of that commercial zone.]

[(12)](5) **Deviation of Service Route.** Where a highway over which a motor carrier of passengers **other than in charter service** is authorized to operate in regular route service is temporarily obstructed or rendered unsafe by flood, slides, or other causes over which the carrier has no control or which highway or bridges on that highway are subject to weight restrictions by proper authority, the carrier may deviate from its designated route to the extent necessary to avoid the obstruction or restriction, but shall not provide service to, from, or between any points which it is not otherwise authorized to serve.

[(13)](6) **Regulation Presumed.** All intrastate transportation provided for hire by a motor carrier who is subject to the jurisdiction of the commission under Chapter 390, RSMo, shall be presumed to be transportation subject to the commission's jurisdiction, except when the carrier has removed or covered up all vehicle markings which display the number of the motor carrier's certificate or permit on each vehicle while being used for exempt transportation. This requirement is deemed to be reasonably necessary to distinguish exempt activities from regulated transportation activities pursuant to the carrier's certificate or permit.

[(14)](7) **Claims.** Every motor [common] carrier who receives a written claim for loss or damage to passengers or baggage transported by it shall acknowledge receipt of that claim, in writing, to the claimant within thirty (30) calendar days after the carrier receives the written claim. The carrier, at the time the claim is received, shall cause the date of receipt to be recorded on the claim and shall maintain a claim register. The carrier, within one hundred twenty (120) days after the receipt of the claim, shall tender payment, decline payment, or make a firm compromise settlement offer in writing to the claimant.

**AUTHORITY:** section 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-10.050. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 2, 2013.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title [4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT] 7—DEPARTMENT OF  
TRANSPORTATION**  
**Division 265—[Division of] Motor Carrier and Railroad  
Safety**  
**Chapter [6—Transportation] 10—Motor Carrier  
Operations**

**PROPOSED AMENDMENT**

[4 CSR 265-6.010] 7 CSR 265-10.055 **Passenger Tariffs.** The Missouri Highways and Transportation Commission is updating references to the commission and FMCSA, amending sections (1) and (3), and moving the rule to Title 7 Department of Transportation.

**PURPOSE:** This proposed amendment prescribes the form and governs the construction and filing of passenger tariffs of railroad corporations, street railroad corporations, motor carriers, and contract haulers.

(1) The division adopts "General Order No. 35" of the Missouri Public Service Commission, also known as Circular No. 43, prescribing the form and governing the construction and filing of passenger fare schedules by all common carriers which became effective September 1, 1941. Subject to sections (3) and (4), every motor carrier under the jurisdiction of the [Division of Transportation] **commission** is directed to file with the division and print and keep open for public inspection in every station or office in this state where passengers are received for transportation, schedules showing the rates, fares, and charges for the transportation of persons within this state.

(3) The division has interpreted the provisions of Section 211, Title II, of the Trucking Industry Regulatory Reform Act of 1994 (H.R. 2178, 103d Congress, 2d Session) (49 U.S.C. section 10936) as preempting the requirements of state laws and regulations relating to intrastate fares for the transportation of passengers by bus, by an interstate motor carrier of passengers over a route authorized by the [Interstate Commerce Commission (ICC)] **Federal Motor Carrier Safety Administration (FMCSA)**. Because of this federal preemption, the division will no longer require the filing of rate tariffs for the transportation of passengers in Missouri intrastate commerce by [ICC] **FMCSA**-authorized interstate bus operators, over routes authorized by the [ICC] **FMCSA**. This preemption of intrastate rate and tariff requirements for these carriers does not relieve any carrier from the requirements of obtaining intrastate operating authority under 49 U.S.C. section 10922(c)(2) and section 390.051.1., et seq., RSMo.

**AUTHORITY:** section 622.027, RSMo [(1994)] 2000. This rule originally filed as 4 CSR 265-6.010. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the **Code of State Regulations**. Moved and amended: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.060 Inspection of Books, Records, Property, Equipment, and Roadside Stops by Division Personnel.** This rule implemented the provisions of sections 386.320 and 390.150.4, RSMo, which subject the books, records, documents, papers, property, equipment, buildings, and offices of persons and corporations regulated by the division to inspection by the division's representatives at any time, and the provisions of sections 304.022 and 390.045, RSMo, which authorize the division's enforcement personnel to stop commercial motor vehicles and obtain information to determine whether the vehicle is operated in violation of Chapter 390, RSMo, or the division's rules.

*PURPOSE: This rule is being rescinded. The requirements specified within this rule do not provide the Missouri Highways and Transportation Commission with any additional authority or clarity beyond what is spelled out in current statutes.*

*AUTHORITY: section 622.027, RSMo [1994] 2000. This rule was previously filed as 4 CSR 265-10.055 and 4 CSR 265-10.060. Original rule filed May 17, 1989, effective Sept. 11, 1989. For intervening history, please consult the Code of State Regulations. Rescinded: Filed May 2, 2013.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.070 Classification of Common Carriers by Services Performed.** Except as preempted by Section 601 of the Federal Aviation Administration Authorization Act of 1994 (H.R. 2379, 103d Congress, 2d Session)(49 U.S.C. sections 11501(h) and 41713(b)), the Division of Transportation had authority to establish just and rea-

sonable classifications of types of carriers included in the terms common carriers or contract carriers as the special nature of the service performed by the carriers shall require. This rule established and defined the service authorized for these classifications of carriers.

*PURPOSE: This rule is being rescinded. The requirements specified within this rule do not provide the Missouri Highways and Transportation Commission with any additional authority or clarity beyond what is spelled out in current statutes or by agency policy.*

*AUTHORITY: section 622.027, RSMo [1994] 2000. This rule was previously filed as 4 CSR 265-10.060 and 4 CSR 265-10.070. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Rescinded: Filed May 2, 2013.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.080 Rules Governing the Transportation of Household Goods.** The Missouri Highways and Transportation Commission had authority to establish rules concerning motor carrier operations. This rule set forth definitions of terms used by that segment of the motor carrier industry which transports household goods, requires the distribution of an informational pamphlet, provides for the preparation of inventories, sets forth the requirements of a bill of lading, establishes guidelines for delivery when actual charges exceed estimated charges, establishes guidelines for handling claims for loss or damage to property, establishes guidelines for record keeping and requires tariff provisions pertaining to exclusive use of vehicles and reservations for a portion of a vehicle. This rule was promulgated to protect the consumer when utilizing household goods carriers.

*PURPOSE: This rule is being rescinded. The requirements for motor carriers who transport household goods in intrastate commerce as established by previous orders of the Missouri Highways and Transportation Commission and its predecessors are incorporated into a tariff circular and referenced in 7 CSR 265-10.050 Tariffs, Time Schedules and Motor Carrier Documentation.*

*AUTHORITY: section 622.027, RSMo 2000. This rule was previously filed as 4 CSR 265-10.070 and 4 CSR 265-10.080. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For intervening history, please consult the Code of State Regulations. Rescinded: Filed May 2, 2013.*

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title [4—DEPARTMENT OF ECONOMIC DEVELOPMENT] 7—DEPARTMENT OF TRANSPORTATION**

**Division 265—[Division of] Motor Carrier and Railroad Safety**

**Chapter [2—Practice and Procedure] 10—Motor Carrier Operations**

**PROPOSED AMENDMENT**

[4 CSR 265-2.190] 7 CSR 265-10.090 **Merger of Duplicated or Overlapping Motor Carrier Operating Authority.** The Missouri Highways and Transportation Commission is amending sections (1)–(4) and moving the rule to Title 7 Department of Transportation.

*PURPOSE:* This proposed amendment interprets and implements the principles of merger with reference to motor carriers who acquire, or whose certificates or permits contain, duplicated or overlapping pieces of operating authority.

(1) Two (2) or more separate pieces of motor carrier operating authority possessed or acquired by a motor carrier shall be deemed to be merged, and shall no longer be effective as separate pieces of authority, whenever the commodities to be transported, the routes or territory to be served, and the nature of the transportation service authorized by one (1) piece of authority are identical to, or wholly included within, the scope of the commodities, the routes, or territory, and the nature of the service authorized by another piece of the carrier's authority. Two (2) or more pieces of the carrier's authority on which consolidation, through service or tacking has been authorized by the [division] commission shall be considered as one (1) piece of authority for this purpose. A partial duplication or overlapping of each piece of authority is not sufficient to cause merger; both pieces must be identical, or the greater piece must wholly overlap or include the lesser piece, in order for the separate pieces of authority to be merged.

(2) A motor carrier shall not transfer away a piece of authority and yet retain another piece of authority that was merged with the transferred authority. In these cases, the transferor shall forfeit the merged authority to the extent that it duplicates, overlaps, or is overlapped by the transferred piece of authority, except that, if the transferee notifies the [division] commission in writing during a transfer application proceeding that the duplicated or overlapping authority is to be kept by the transferor, then the transferor may keep the merged authority and none of the duplicated or overlapping authority shall be transferred to the transferee. The principles set forth in this rule and the procedures set forth in [4 CSR 265-2.066(5)] 7 CSR 265-10.015 shall apply to proposed transfers involving the merger of authority.

(3) After notice to the affected carrier and an opportunity for hearing, the [division] commission may restate a motor carrier's certificate or permit so as to delete extra pieces of authority that are deemed to be merged and no longer effective as separate pieces of authority. The [division] commission staff or other interested party may propose a restatement of merged authority in transfer proceedings under [4 CSR 265-2.066] 7 CSR 265-10.015, or by filing an independent application with the [division] commission.

(4) The merger principles stated in this rule are applicable irrespective of whether the carrier possesses or acquires the duplicated or overlapping pieces of authority by transfer or by grant of new authority, and without regard to any failure or omission by the [division] commission or its predecessors[, the Missouri Public Service Commission,] to delete the duplicated or overlapping pieces of authority from any motor carrier's certificate or permit.

*AUTHORITY:* section 622.027, RSMo [1986] 2000. This rule originally filed as 4 CSR 265-2.190. Original rule filed Nov. 4, 1992, effective July 8, 1993. Moved and amended: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED AMENDMENT**

**7 CSR 265-10.100 Regulation of Advertising by Motor Carriers.** The Missouri Highways and Transportation Commission is amending section (1) and removing section (2).

*PURPOSE:* This proposed amendment regulates advertising by certain motor carriers, in order to facilitate public recognition of unauthorized carriers, and prevents certain contract carriers from improperly holding out their transportation service to the general public.

(1) Every common carrier [holding a certificate from this division authorizing] authorized to transport[ation of] household goods or passengers in intrastate commerce[, who advertises or holds out to the general public, or a contract carrier of household goods or passengers in charter service who advertises or holds out intrastate transportation service to specific persons or specific groups in this state as engaging in transportation by motor vehicle of household goods or passengers in charter service, shall state in the advertisement or notice, in addition to any other information, the identifying number of that carrier's certificate issued by the [division] commission, and the carrier's name or trade name as stated in the certificate or permit. This includes, but is not limited to, yellow pages telephone directory advertising.

[2] A contract carrier of household goods or passengers shall not hold out to the general public as being engaged in

transportation of household goods or passengers by motor vehicle in intrastate commerce, except that this section shall not prohibit a contract or common carrier from advertising and performing transportation as a motor carrier which is exempted under section 390.030, RSMo, nor does it prohibit a contract carrier who also holds a certificate from this division authorizing transportation as a common carrier from holding out services authorized under that common carrier certificate. A carrier holding out transportation service to the general public is presumed to be engaged in transportation as a common carrier, which must be authorized by a certificate under section 390.051.1, RSMo, or exempted under section 390.030, RSMo. Whenever a contract carrier of household goods or passengers in charter service advertises or holds out intrastate transportation service to specific persons or specific groups, the carrier shall state in the advertisement or notice, in addition to any other information, the entire identifying number of the contract carrier permit issued to the carrier by this division, and the carrier's name or trade name as stated in the permit.]

**AUTHORITY:** section 622.027, RSMo [1994] 2000. This rule originally filed as 4 CSR 265-10.100. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the *Code of State Regulations*. Amended: Filed May 2, 2013.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.110 Joint Service, Interlining and Tacking by Passenger or Household Goods Carriers.** This rule set forth when and how motor carriers of passengers could provide service at joint through rates with other motor carriers, and through service between points on their own separate routes.

**PURPOSE:** This rule is being rescinded in order to replace the entire rule to reflect when and how motor carriers of passengers or household goods may provide service at joint through rates with other motor carriers.

**AUTHORITY:** section 622.027, RSMo [1994] 2000. This rule originally filed as 4 CSR 265-10.110. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed May 2, 2013.

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

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

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RULE**

**7 CSR 265-10.110 Joint Service and Interlining by Passenger or Household Goods Carriers**

**PURPOSE:** This proposed rule sets forth when and how motor carriers of passengers or household goods may provide service at joint through rates with other motor carriers.

(1) Every motor carrier, to the extent it is authorized by the commission to transport passengers between points in Missouri over regular routes only, may participate in joint or interline service after compliance with the applicable tariff requirements of 7 CSR 265-10.055 between any point in Missouri on its own regular route where service is authorized by its own certificate or permit, and any other point in Missouri on the regular route of another motor carrier of passengers where service is authorized by that carrier's certificate or permit, and shall actually interchange passengers with the other carrier at an authorized point common to both carriers' certificates or permits.

(2) Every motor carrier, to the extent it is authorized by the commission to transport household goods after compliance with 7 CSR 265-10.050 between any through routes in Missouri where service is authorized by its own certificate or permit, and any other point in Missouri on the regular routes of another motor carrier of household goods where service is authorized by that carrier's certificate or permit, and shall actually interchange household goods with the other carrier at an authorized point common to both carriers' certificates or permits.

**AUTHORITY:** section 622.027, RSMo 2000. This rule originally filed as 4 CSR 265-10.110. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the *Code of State Regulations*. Rescinded and readopted: Filed May 2, 2013.

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

**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 Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RESCISSION**

**7 CSR 265-10.120 Household Goods Tariffs.** This rule prescribed the form of the tariff filings with the commission.

*PURPOSE:* This rule is being rescinded. The requirement for motor carriers who transport household goods in intrastate commerce as established by previous order of the Missouri Highways and Transportation Commission and its predecessors is incorporated into a tariff circular and referenced in 7 CSR 265-10.050 Tariffs, Time Schedules and Motor Carrier Documentation.

*AUTHORITY:* section 622.027, RSMo 2000. Emergency rule filed Sept. 13, 2007, effective Oct. 3, 2007, expired March 30, 2008. Original rule filed Sept. 13, 2007, effective March 30, 2008. Rescinded: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 265—Motor Carrier and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**PROPOSED RULE**

**7 CSR 265-10.130 Complaints**

*PURPOSE:* This proposed rule sets forth the requirements for filing consumer complaints with the Missouri Highways and Transportation Commission.

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

(1) Authority to File Complaints. Complaints may be made regarding the movement of household goods in intrastate commerce against any motor carrier upon the filing of such complaint with the commission.

(2) Complaint Information. The complainant shall provide to the commission the information as required on the commission's complaint form as published by the Missouri Highways and Transportation Commission, Motor Carrier Services Division, which is incorporated herein by reference and made a part of this

rule as published by the Missouri Highways and Transportation Commission, Motor Carrier Services Division. The form may be located at [www.modot.org/movinginmissouri](http://www.modot.org/movinginmissouri). April 8, 2013. This rule does not include subsequent amendments or additions.

(3) Dismissal. The complaint shall be dismissed without action and the complainant shall be notified by the commission if the complainant fails to file the required information; the description or documentation of the complaint is unclear and not sufficient to determine what act or omission is being described within the complaint; the complaint is not within the jurisdiction of the commission or the complaint is unfounded. No complaint shall be dismissed solely because of the absence of direct damage to the complainant.

(4) Disclosure. Only information open for public inspection shall be divulged to the complainant.

(5) Federal Coordination. The commission may coordinate interstate commerce complaint investigations, findings, and disposition with the U.S. Department of Transportation, Federal Motor Carrier Safety Administration.

(6) Complaint Resolution. The respondent and commission may resolve the complaint without any approval of the complainant. If a complaint is not resolved between the commission and the respondent, the commission may prosecute the complaint as authorized by law.

*AUTHORITY:* section 622.027, RSMo 2000. Original rule filed May 2, 2013.

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

*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 Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title [4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT] 7—DEPARTMENT OF  
TRANSPORTATION  
Division 265—[Division of] Motor Carrier  
and Railroad Safety  
Chapter [2—Practice and Procedure] 10—Motor Carrier  
Operations**

**PROPOSED AMENDMENT**

*[4 CSR 265-2.180] 7 CSR 265-10.140 Discontinuance of Service; Suspension and Revocation of Certificates, [and] Permits, and Property Carrier Registrations.* The Missouri Highways and Transportation Commission is amending sections (1), (3), (4), (6), and (7); deleting sections (2) and (5); renumbering as needed; and moving the rule to Title 7 Department of Transportation.

*PURPOSE:* This proposed amendment prescribes procedures for cancelling, suspending and revoking a certificate, permit, or property carrier registration to transport passengers or property.

(1) The [division] commission may cancel a certificate, [or] permit, or property carrier registration which authorizes the transportation of passengers [in charter service] or property [other than household goods], upon receiving written notice from the person to whom the [certificate or permit] authority was issued which indicates that the person has discontinued that transportation service. The [division] commission may cancel such a certificate or permit without a hearing, unless the person requests a hearing before the effective date of the cancellation.

[(2) Motor carriers of passengers other than in charter service or household goods desiring to discontinue all or any part of the intrastate transportation service authorized in their certificates or permits shall file, in writing, an original and one (1) copy of an application with the director of the division. The application shall be verified under oath or penalty of perjury, and shall—

(A) Have attached to it a copy of the carrier's certificate or permit on which the specific route or portion of the described service which the applicant seeks to discontinue is highlighted or otherwise indicated;

(B) State specifically on it the reasons why the applicant seeks to discontinue the transportation service;

(C) State specifically on it the pertinent, supporting facts on which the applicant relies; and

(D) Be granted by the division's administrative law judge only for good cause shown, based on the verified application, any responses filed by division staff and other interested persons, and, if so ordered in the judge's discretion, evidence admitted at a hearing on the application.]

[(3)](2) If a common carrier of passengers who has both intrastate authority and interstate authority issued by [the Interstate Commerce Commission (ICC)] the Secretary of the Department of Transportation (Secretary) or its predecessor under 49 U.S.C. section [10922] 13902, to provide transportation over routes on which the carrier proposes to discontinue intrastate service, [or to reduce intrastate service to a level which is less than one (1) trip per day (excluding Saturdays and Sundays), then the carrier shall apply to this division for authority to discontinue or reduce that intrastate service. The application shall comply with the provisions of section (1) of this rule and the following additional requirements:

(A) The verified application shall—

1. State whether the applicant has applied to the ICC for authority to discontinue his/her corresponding interstate service on the route under 49 U.S.C. section 10925(b), and whether or not the ICC has granted or will grant that authority;

2. Attach a copy of the [ICC] order authorizing discontinuance or reduction of the interstate service[, if any, and attach a copy of the carrier's ICC certificate which authorizes the interstate service on the route;] must be attached to the written notice before the commission considers the cancellation request.

3. Include detailed information showing the nature and amount of the interstate and intrastate revenues received by the carrier for providing the transportation proposed to be discontinued or reduced, and the variable costs of providing that transportation, including depreciation for revenue equipment; and

(B) In making a finding of good cause under subsection (1)(D) of this rule, the administrative law judge shall consider at least the following:

1. Whether the proposed discontinuance or reduction is not consistent with the public interest; and

2. Whether the interstate and intrastate revenues received by the carrier for providing the transportation pro-

posed to be discontinued or reduced are less than the variable costs of providing the transportation, including depreciation for revenue equipment.]

[(4)](3) Whenever [an administrative law judge shall] the commission suspends the certificate, [or] permit, or property carrier registration of a motor carrier as provided under section 390.106, RSMo, the [division] commission shall immediately notify the carrier of the suspension by mailing a copy of the suspension order to the carrier's principal place of business or mailing address, if different, as shown upon the [division's] commission's records. Within a reasonable time after suspension, the [division] commission shall [set] send the matter to the Administrative Hearing Commission for a hearing [on not less than ten (10) days' notice, and shall serve on the motor carrier an order requiring him/her to appear at the hearing and] to show cause why his/her certificate or permit should not be revoked. [The scheduled hearing shall be continued by order of the administrative law judge to a later date only for good cause shown.]

[(5) Whenever a formal complaint is filed in accordance with 4 CSR 265-2.070, which requests the suspension or revocation of a motor carrier's certificate or permit on any of the four (4) grounds set forth in section 390.106, RSMo, the division shall proceed in accordance with that rule, except that the hearing shall be held upon not less than ten (10) days' notice to the carrier, and any order of revocation shall become effective upon not less than thirty (30) days' notice.]

[(6)](4) After the hearing, and upon a finding that any of the grounds exist for revocation as set forth in subdivisions (1), (2), (3), or (4) of section 390.106, RSMo, the [administrative law judge] Administrative Hearing Commission may order the revocation of the carrier's certificate, [or] permit, or property carrier registration upon not less than thirty (30) days notice to the carrier. The notice shall be sent by [certified] mail [return receipt requested,] to the carrier's principal place of business or mailing address, if different, as shown upon the commission's records, to any carrier who holds intrastate authority.

[(7)](5) When a carrier has been given notice as provided in this rule, a certificate, [or] permit, or property carrier registration shall not be reinstated or restored to active status after the effective date of an [division] order which has revoked that certificate or permit.

*AUTHORITY:* section 622.027, RSMo [1994] 2000. This rule originally filed as 4 CSR 265-2.180. Original rule filed Nov. 4, 1992, effective July 8, 1993. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed May 2, 2013.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Transportation, Pamela Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.070 New Source Performance Regulations.** The commission proposes to amend subsection (1)(A) and section (3). If the commission adopts this rule action, it will be the department's intention to advise the U.S. Environmental Protection Agency that we will accept delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/regs/index.html](http://www.dnr.mo.gov/regs/index.html).

*PURPOSE: This rule establishes acceptable design and performance criteria for specified new or modified emission sources. The purpose of this rulemaking is to adopt by reference new emission standards, updates, and clarifications to existing federal rule 40 CFR 60 that were promulgated from February 17, 2012, through December 31, 2012. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is elements of the state/EPA work plan and Title V Operating Permit Program requirements.*

(1) Applicability.

(A) The provisions of 40 CFR 60 promulgated as of June 30, [2011] **2012**, and *Federal Register* Notices [77 FR 9304] **77 FR 48433, 77 FR 49490, and 77 FR 56422** promulgated [February 16, 2012] **from July 1, 2012, through December 31, 2012**, shall apply and are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

(3) General Provisions. The following [are the] New Source Performance Standards (NSPS) 40 CFR part 60 subparts [that are] adopted by reference in subsection (1)(A) of this rule[.] **are listed below by [l/]individual source operations or installations in these categories [are] and subject to this rule [based on date of commencement of construction and other category specific parameters,]** as specified in the applicable subpart:

**Subpart Title**

(D) Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971

(Da) Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978

(Db) Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

(Dc) Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units

(E) Standards of Performance for Incinerators

(Ea) Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994

(Eb) Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996

(Ec) Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996

(F) Standards of Performance for Portland Cement Plants

(G) Standards of Performance for Nitric Acid Plants

**(Ga) Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011**

(H) Standards of Performance for Sulfuric Acid Plants

(I) Standards of Performance for Hot Mix Asphalt Facilities

(J) Standards of Performance for Petroleum Refineries

(Ja) Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007

(K) Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978

(Ka) Standards [for] of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984

(Kb) Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984

(L) Standards of Performance for Secondary Lead Smelters

(M) Standards of Performance for Secondary Brass and Bronze Production Plants

(N) Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973

(Na) Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983

(O) Standards of Performance for Sewage Treatment Plants

(P) Standards of Performance for Primary Copper Smelters

(Q) Standards of Performance for Primary Zinc Smelters

(R) Standards of Performance for Primary Lead Smelters

(S) Standards of Performance for Primary Aluminum Reduction Plants

(T) Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants

(U) Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants

(V) Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants

(W) Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants

(X) Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities

(Y) Standards of Performance for Coal Preparation Plants

(Z) Standards of Performance for Ferroalloy Production Facilities

(AA) Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983

(AAa) Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983

(BB) Standards of Performance for Kraft Pulp Mills

(CC) Standards of Performance for Glass Manufacturing Plants

(DD) Standards of Performance for Grain Elevators

(EE) Standards of Performance for Surface Coating of Metal Furniture

(GG) Standards of Performance for Stationary Gas Turbines

(HH) Standards of Performance for Lime Manufacturing Plants

(KK) Standards of Performance for Lead-Acid Battery Manufacturing Plants



(LL) Standards of Performance for Metallic Mineral Processing Plants  
(MM) Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations  
(NN) Standards of Performance for Phosphate Rock Plants  
(PP) Standards of Performance for Ammonium Sulfate Manufacture  
(QQ) Standards of Performance for the Graphic Arts Industry: Publication Roto-/gravure Printing  
(RR) Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations  
(SS) Standards of Performance for Industrial Surface Coating: Large Appliances  
(TT) Standards of Performance for Metal Coil Surface Coating  
(UU) Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture  
(VV) Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry **for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006**  
(VVa) Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006  
(WW) Standards of Performance for the Beverage Can Surface Coating Industry  
(XX) Standards of Performance for Bulk Gasoline Terminals  
(AAA) Standards of Performance for New Residential Wood Heaters  
(BBB) Standards of Performance for the Rubber Tire Manufacturing Industry  
(DDD) Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry  
(FFF) Standards of Performance for Flexible Vinyl and Urethane Coating and Printing  
(GGG) Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries **for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006**  
(GGGa) Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006  
(HHH) Standards of Performance for Synthetic Fiber Production Facilities  
(III) Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes  
(JJJ) Standards of Performance for Petroleum Dry Cleaners  
(KKK) Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants  
(LLL) Standards of Performance for Onshore Natural Gas Processing: SO<sub>2</sub> Emissions  
(NNN) Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations  
(OOO) Standards of Performance for Nonmetallic Mineral Processing Plants  
(PPP) Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants  
(QQQ) Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems  
(RRR) Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes  
(SSS) Standards of Performance for Magnetic Tape Coating Facilities  
(TTT) Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines

(UUU) Standards of Performance for Calciners and Dryers in Mineral Industries  
(VVV) Standards of Performance for Polymeric Coating of Supporting Substrates Facilities  
(WWW) Standards of Performance for Municipal Solid Waste Landfills  
(AAAA) Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001  
(CCCC) Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001  
(EEEE) Standards of Performance for Other Solid Waste Incineration Units for Which Construction Commenced After December 9, 2004, or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006  
(III) Standards of Performance for Stationary Compression Ignition Internal Combustion Engines  
(JJJJ) Standards of Performance for Stationary Spark Ignition Internal Combustion Engines  
(KKKK) Standards of Performance for Stationary Combustion Turbines  
(LLLL) Standards of Performance for New Sewage Sludge Incineration Units  
(OOOO) **Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution**

*AUTHORITY: section 643.050, RSMo Supp. [2011] 2012, Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed May 7, 2013.*

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

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., July 24, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., July 31, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.*

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.075 Maximum Achievable Control Technology Regulations.** The commission proposes to amend subsection (1)(A) and section (3). If the commission adopts this rule action, it will be the department's intention to advise the U.S. Environmental Protection

Agency that we will accept delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/regs/index.html](http://www.dnr.mo.gov/regs/index.html).

*PURPOSE: This rule establishes emission control technology, performance criteria, and work practices to achieve emission standards for sources that emit or have the potential to emit hazardous air pollutants. The purpose of this rulemaking is to adopt by reference new emission standards, updates, and clarifications to existing federal rule 40 CFR 63 that were promulgated from February 17, 2012, through December 31, 2012. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is elements of the state/EPA work plan and Title V Operating Permit Program requirements.*

(1) Applicability.

(A) The provisions of 40 CFR 63 promulgated as of June 30, [2011] 2012, and Federal Register Notices [76 FR 57913, 76 FR 70834, 76 FR 72050, 76 FR 74708, 76 FR 80261, 77 FR 556, and 77 FR 9304] 77 FR 45967, 77 FR 49490, 77 FR 55698, 77 FR 58220, 77 FR 65135, and 77 FR 75740 promulgated from July 1, [2011] 2012, through [February 16] December 31, 2012, shall apply and are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

(3) General Provisions. The following [are the] Maximum Achievable Control Technology (MACT) 40 CFR 63 subparts [that are] adopted by reference in subsection (1)(A) of this rule[.] **are listed below by [individual source operations or installations in these categories [are] and subject to this rule [based on category specific parameters,] as specified in the applicable subpart:**

**Subpart Title**

(F) National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry

(G) National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater

(H) National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks

(I) National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks

(L) National Emission Standards for Coke Oven Batteries

(M) National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

(N) National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

(O) Ethylene Oxide Emissions Standards for Sterilization Facilities

(Q) National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers

(R) National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)

(S) National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry

(T) National Emission Standards for Halogenated Solvent Cleaning

(U) National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins

(W) National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production

(X) National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

(Y) National Emission Standards for Marine Tank Vessel Loading Operations

(AA) National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

(BB) National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants

(CC) National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

(DD) National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations

(EE) National Emission Standards for Magnetic Tape Manufacturing Operations

(GG) National Emission Standards for Aerospace Manufacturing and Rework Facilities

(HH) National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities

(II) National Emission Standards for Shipbuilding & Ship Repair (Surface Coating)

(JJ) National Emission Standards for Wood Furniture Manufacturing Operations

(KK) National Emission Standards for the Printing and Publishing Industry

(LL) National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

(MM) National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicheical Pulp Mills

(OO) National Emission Standards for Tanks—Level 1

(PP) National Emission Standards for Containers

(QQ) National Emission Standards for Surface Impoundments

(RR) National Emission Standards for Individual Drain Systems

(SS) National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process

(TT) National Emission Standards for Equipment Leaks—Control Level 1

(UU) National Emission Standards for Equipment Leaks—Control Level 2 Standards

(VV) National Emission Standards for Oil-Water Separators and Organic-Water Separators

(WW) National Emission Standards for Storage Vessels (Tanks)—Control Level 2

(XX) National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations

(YY) National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

(CCC) National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants

(DDD) National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production

(EEE) National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors

(GGG) National Emission Standards for Pharmaceuticals Production

(HHH) National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities

(III) National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production

(JJJ) National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

(LLL) National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry  
(MMM) National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production  
(NNN) National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing  
(OOO) National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins  
(PPP) National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production  
(QQQ) National Emission Standards for Hazardous Air Pollutant Emissions for Primary Copper Smelting  
(RRR) National Emission Standards for Hazardous Air Pollutants: Secondary Aluminum Production  
(TTT) National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting  
(UUU) National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units  
(VVV) National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works  
(XXX) National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese  
(AAAA) National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills  
(CCCC) National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast  
(DDDD) National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products  
(EEEE) National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)  
(FFFF) National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing  
(GGGG) National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production  
(HHHH) National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production  
(IIII) National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light Duty Trucks  
(JJJJ) National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating  
(KKKK) National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans  
(MMMM) National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products  
(NNNN) National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances  
(OOOO) National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles  
(PPPP) National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products  
(QQQQ) National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products  
(RRRR) National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture  
(SSSS) National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil  
(TTTT) National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations  
(UUUU) National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing  
(VVVV) National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing  
(WWWW) National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production

(XXXX) National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing  
(YYYY) National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines  
(ZZZZ) National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines  
(AAAAA) National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants  
(BBBBB) National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing  
(CCCCC) National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks  
(DDDDD) National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters  
(EEEE) National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries  
(FFFFF) National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities  
(GGGGG) National Emission Standards for Hazardous Air Pollutants: Site Remediation  
(HHHHH) National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing  
(IIIII) National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants  
(LLLLL) National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing  
(MMMMM) National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations  
(NNNNN) National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production  
(PPPPP) National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands  
(QQQQQ) National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities  
(RRRRR) National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing  
(SSSSS) National Emissions Standards for Hazardous Air Pollutants for Refractory Products Manufacturing  
(TTTTT) National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining  
(UUUUU) National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units  
(WWWWW) National Emission Standards for Hospital Ethylene Oxide Sterilizers  
(YYYYY) National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities  
(ZZZZZ) National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources  
(BBBBBB) National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities  
(CCCCCC) National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities  
(DDDDDD) National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources  
(EEEEEE) National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources  
(FFFFFF) National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources  
(GGGGGG) National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources—Zinc, Cadmium, and Beryllium

(HHHHHH) National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources

(JJJJJJ) National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers

(LLLLLL) National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources

(MMMMMM) National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources

(NNNNNN) National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds

(OOOOOO) National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources

(PPPPPP) National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources

(QQQQQQ) National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources

(RRRRRR) National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources

(SSSSSS) National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources

(TTTTTT) National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources

(VVVVVV) National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources

(WWWWWW) National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations

(XXXXXX) National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories

(YYYYYY) National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities

(ZZZZZZ) National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries

(AAAAAAA) National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing

(BBBBBBB) National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry

(CCCCCCC) National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing

(DDDDDDD) National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing

(EEEEEEE) National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category

**(HHHHHHH) National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production**

*AUTHORITY:* section 643.050, RSMo Supp. [2011] 2012. Original rule filed May 1, 1996, effective Dec. 30, 1996. For intervening history, please consult the *Code of State Regulations*. Amended: Filed May 7, 2013.

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

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

ate entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing on this proposed amendment will begin at 9:00 a.m., July 24, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., July 31, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to [apcprulespn@dnr.mo.gov](mailto:apcprulespn@dnr.mo.gov).

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.080 Emission Standards for Hazardous Air Pollutants.** The commission proposes to amend subsection (1)(A) and section (3). If the commission adopts this rule action, it will be the department's intention to advise the U.S. Environmental Protection Agency that we will accept delegation of enforcement authority for these federal regulations. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/regs/index.html](http://www.dnr.mo.gov/regs/index.html).

*PURPOSE:* This rule establishes emission standards and performance criteria for new or modified sources emitting hazardous air pollutants. The purpose of this rulemaking is to adopt by reference new emission standards, updates, and clarifications to existing federal rule 40 CFR 61 that were promulgated from February 17, 2012, through December 31, 2012. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is elements of the state/EPA work plan and Title V Operating Permit Program requirements.

(1) Applicability.

(A) The provisions of 40 CFR 61 promulgated as of June 30, [2011] 2012, shall apply and are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

(3) The following [are the] National Emission Standards for Hazardous Air Pollutants (NESHAPs) 40 CFR part 61 subparts [that are] adopted by reference in subsection (1)(A) of this rule[.] are listed below by [I]individual source operations or installations in these categories [are] subject to this rule [based on category specific parameters,] as specified in the applicable subpart:

**Subpart Title**

- (C) National Emission Standard for Beryllium
- (D) National Emission Standard for Beryllium Rocket Motor Firing
- (E) National Emission Standard for Mercury
- (F) National Emission Standard for Vinyl Chloride
- (J) National Emission Standard for Equipment Leaks (Fugitive

Emission Sources) of Benzene

(L) National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants

(M) National Emission Standard for Asbestos

(N) National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants

(O) National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters

(P) National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities

(V) National Emission Standard for Equipment Leaks (Fugitive Emission Sources)

(Y) National Emission Standards for Benzene Emissions From Benzene Storage Vessels

(BB) National Emission Standards for Benzene Emissions From Benzene Transfer Operations

(FF) National Emission Standard for Benzene Waste Operations

*AUTHORITY: section 643.050, RSMo Supp. [2011] 2012. Original rule filed Dec. 10, 1979, effective April 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed May 7, 2013.*

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

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate. The private entity fiscal cost impacts for compliance with the federal standards are accounted for in the federal rulemakings.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., July 24, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., July 31, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.*

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

**PROPOSED AMENDMENT**

**10 CSR 10-6.130 Controlling Emissions During Episodes of High Air Pollution Potential.** The commission proposes to amend the rule purpose, amend subsection (1)(A), and amend sections (2), (3), and (4). If the commission adopts this rule action, it will be the department's intention to submit this rule amendment to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/reg/index.html](http://www.dnr.mo.gov/reg/index.html).

*PURPOSE: This rule specifies the conditions that establish air pollution alert and emergency alert levels and the associated procedures and emissions reduction objectives. The purpose of this amendment is to update a table by removing the pollutant concentration breakpoints that become inaccurate each time the National Ambient Air Quality Standards change, clarify the requirement for sources to provide the department with an emissions reduction plan when requested, clarify rule provisions, and remove definitions that can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables. The evidence supporting the need for this proposed rulemaking, per 536.016, RSMo, is a rule comment form dated July 26, 2011, from Missouri Department of Natural Resources staff.*

*PURPOSE: This rule specifies the conditions that establish [an] air pollution alert[, watch, or emergency] and emergency alert levels and the associated procedures and emissions reduction objectives [for dealing with each].*

(1) Applicability.

(A) This rule shall apply to all [emissions from any source or from any premises] sources and premises throughout the entire state with air emissions that contribute to sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO), ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), or Particulate Matter—10 Micron (PM<sub>10</sub>) and 2.5 Micron (PM<sub>2.5</sub>).

(2) Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.

[*(A) Air pollution alert—The level of an air pollution episode known as an air pollution alert is that condition when the concentration of air contaminants reach the level at which the first stage control actions are to begin.*

[*(B) Air Stagnation Advisory—A special bulletin issued by the National Weather Service entitled "Air Stagnation Advisory," which is used to warn air pollution control agencies that stagnant atmospheric conditions are expected which could cause increased concentrations of air contaminants near the ground.*

[*(C) Area—For the purpose of this rule, any or all regions within the boundaries of the state of Missouri.*

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

(3) General Provisions.

(A) Air Pollution Alerts.

1. The Air Quality Index shall be reported to the general public on a daily basis by all metropolitan statistical areas with a population exceeding three hundred fifty thousand (350,000).

2. Alert levels for applicable air pollutants are stated in terms of the Air Quality Index (AQI) as defined in 40 CFR [part] 58, Appendix G[, for sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO), ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), and Particulate Matter—10 Micron (PM<sub>10</sub>) and 2.5 Micron (PM<sub>2.5</sub>)]. Table A shows the relation of the AQI [breakpoint values to equivalent concentrations of air contaminants. All concentrations are averaged over the time period indicated] ranges to alert categories.

| Table A                  |                                |             |                           |                           |   |  |               |                            |                            |
|--------------------------|--------------------------------|-------------|---------------------------|---------------------------|---|--|---------------|----------------------------|----------------------------|
| [BREAKPOINT FOR THE] AQI |                                |             |                           |                           |   |  |               |                            |                            |
| AQI                      | Alert Category                 | Alert Color | [Breakpoint Values]       |                           |   |  |               |                            |                            |
|                          |                                |             | [O <sub>3</sub><br>(ppm)] | [O <sub>3</sub><br>(ppm)] | [PM <sub>2.5</sub><br>(μg/m <sup>3</sup> )] | [PM <sub>10</sub><br>(μg/m <sup>3</sup> )] | [CO<br>(ppm)] | [SO <sub>2</sub><br>(ppm)] | [NO <sub>2</sub><br>(ppm)] |
|                          |                                |             | [8-hour]                  | [1-hour <sup>(1)</sup> ]  | [24-hour]                                   | [24-hour]                                  | [8-hour]      | [24-hour]                  | [24-hour]                  |
| 0-50                     | Good                           | Green       | [0.000-0.059]             | [-----]                   | [0.0-15.4]                                  | [0-54]                                     | [0.0-4.4]     | [0.000-0.034]              | [(2)]                      |
| 51-100                   | Moderate                       | Yellow      | [0.060-0.075]             | [-----]                   | [15.5-40.4]                                 | [55-154]                                   | [4.5-9.4]     | [0.035-0.144]              | [(2)]                      |
| 101-150                  | Unhealthy for sensitive groups | Orange      | [0.076-0.095]             | [0.125-0.164]             | [40.5-65.4]                                 | [155-254]                                  | [9.5-12.4]    | [0.145-0.224]              | [(2)]                      |
| 151-200                  | Unhealthy                      | Red         | [0.096-0.115]             | [0.165-0.204]             | [65.5-150.4]                                | [255-354]                                  | [12.5-15.4]   | [0.225-0.304]              | [(2)]                      |
| 201-300                  | Very Unhealthy                 | Purple      | [0.116-0.374]             | [0.205-0.404]             | [150.5-250.4]                               | [355-424]                                  | [15.5-30.4]   | [0.305-0.604]              | [0.65-1.24]                |
| 301-400                  | Hazardous                      | Maroon      | [(3)]                     | [0.405-0.504]             | [250.5-350.4]                               | [425-504]                                  | [30.5-40.4]   | [0.605-0.804]              | [1.25-1.64]                |
| 401-500                  | Hazardous                      | Maroon      | [(3)]                     | [0.505-0.604]             | [350.5-500.4]                               | [505-604]                                  | [40.5-50.4]   | [0.805-1.004]              | [1.65-2.04]                |

*[(1) Areas are generally required to report the AQI based on eight (8)-hour ozone values. However, there are a small number of areas where an AQI based on one (1)-hour ozone values would be more precautionary. In these cases, in addition to calculating the eight (8)-hour ozone index value, the one (1)-hour ozone index value may be calculated, and the maximum of the two (2) values reported.*

*[(2) NO<sub>2</sub> has no short-term National Ambient Air Quality Standard and can generate an AQI value only above two hundred (200).*

*[(3) Eight (8)-hour O<sub>3</sub> values do not define higher AQI values (greater than or equal to three hundred one (301)). AQI values of three hundred one (301) or higher are calculated with one (1)-hour O<sub>3</sub> concentrations.]*

3. Alert types and levels of initiation. **If an AQI value falls within the AQI range listed in Table A of this rule, the corresponding alert color shall be initiated.**

*[A. Orange alert AQI value. Any one (1) of the contaminants listed in paragraph (3)(A)2. reaching a concentration which results in an AQI value of one hundred one to one hundred fifty (101-150) shall initiate the orange alert.*

*[B. Red alert AQI value. Any one (1) of the contaminants listed in paragraph (3)(A)2. reaching a concentration which results in an AQI value of one hundred fifty-one to two hundred (151-200) shall initiate the red alert.*

*[C. Purple alert AQI value. Any one (1) of the contaminants listed in paragraph (3)(A)2. reaching a concentration which results in an AQI value of two hundred one to three hundred (201-300) shall initiate the purple alert.*

*[D. Maroon emergency alert AQI value. Any one (1) of the contaminants listed in paragraph (3)(A)2. reaching a concentration which results in an AQI value of three hundred one to five hundred (301-500) shall initiate the maroon emergency alert.]*

4. Declaration of alerts. An orange alert, red alert, purple alert, or maroon emergency alert may be declared on the basis of deteriorating air quality alone; an Air Stagnation Advisory need not be in effect. The appropriate *[episode status]* alert level should be declared by the director as ambient monitoring would indicate.

5. Termination of alerts. When, in the judgment of the director, meteorological conditions and pollutant concentrations warrant dis-

continuation of any alert condition, the director shall notify the technical staff, the chairman, and members of the Missouri Air Conservation Commission that the alert has been discontinued and issue a public notice to that effect.

**(B) [Orange Alert.] Conditions. This subsection provides conditions that establish alert level categories.**

*[1. Orange alert procedures shall be initiated by the director if the following conditions are met:*

*A. An Air Stagnation Advisory is in effect;*

*B. The orange alert AQI value is equaled or exceeded at any one (1) monitoring station within the affected area, unless there is a current forecast of meteorological improvement within the next twenty-four (24) hours; and*

*C. Meteorological conditions are such that the pollutant concentrations can be expected to remain or reoccur at the previously mentioned levels during the next twenty-four (24) or more hours or increase unless control actions are taken.*

*2. The following are orange alert procedures. The general public shall be informed through the news media that an orange alert exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.]*

| <b>Table B</b>   |  |   |  |
|--|--|---|--|
| <b>Conditions for Alert Level Categories</b>   |  |   |  |
| <b>Orange (101-150)</b>  | <b>Red (151-200)</b>   | <b>Purple (201-300)</b>   | <b>Maroon (301-500)</b>  |
| <p>This alert level AQI value is equaled or exceeded at any one (1) monitoring station within the affected area, unless there is a current forecast of meteorological improvement within the next twenty-four (24) hours.<br/>-- and --<br/>Meteorological conditions are such that the conditions can be expected to remain or reoccur in this alert level range during the next twenty-four (24) or more hours or increase unless control actions are taken.</p> | <p>This alert level AQI value is equaled or exceeded at any one (1) monitoring station within the affected area, unless there is a current forecast of meteorological improvement within the next twenty-four (24) hours.<br/>-- and --<br/>Meteorological conditions are such that the conditions can be expected to remain or reoccur in this alert level range during the next twenty-four (24) or more hours or increase unless control actions are taken.</p> | <p>This alert level AQI value is equaled or exceeded at any one (1) monitoring station within the affected area.</p>  | <p>This alert level AQI value is equaled or exceeded at any one (1) monitoring station within the affected area.</p>   |
|  |  | <p style="text-align: center;">-- or --</p> <p>This alert level AQI value is equaled or exceeded as the arithmetic mean for twelve (12) consecutive hours and an Air Stagnation Advisory is in effect.</p>                                    | <p style="text-align: center;">-- or --</p> <p>This alert level AQI value is equaled or exceeded as the arithmetic mean for twelve (12) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.</p>      |
|  |  | <p style="text-align: center;">-- or --</p> <p>The red alert AQI value is equaled or exceeded as the arithmetic mean for twenty-four (24) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.</p> | <p style="text-align: center;">-- or --</p> <p>The purple alert AQI value is equaled or exceeded as the arithmetic mean for twenty-four (24) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.</p> |
|  |  |   | <p style="text-align: center;">-- or --</p> <p>The red alert AQI value is equaled or exceeded as the arithmetic mean for thirty-six (36) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.</p>     |

**(C) [Red Alert.] Procedures.** This subsection establishes procedures for addressing alert level conditions.

1. Red alert procedures shall be initiated by the director if the following conditions are met:

A. An Air Stagnation Advisory is in effect;

B. The red alert AQI value is equaled or exceeded at any one (1) monitoring station within the affected area, unless there is a current forecast of meteorological improvement within the next twenty-four (24) hours; and

C. Meteorological conditions are such that the pollutant concentrations can be expected to remain or reoccur at the previously mentioned levels during the next twenty-four (24) or more hours or increase unless control actions are taken.

2. The following are red alert procedures:

A. All affected governmental control agencies shall be notified that red alert conditions exist and that coordination of action is required;

B. All hospitals within the affected area shall be notified that red alert conditions exist;

C. The frequency of air monitoring shall be increased at all monitoring stations which are not continuous at intervals not exceeding one (1) hour, with continual hourly review at a central control location, if this equipment is available and it is deemed necessary by the director;

D. The general public shall be informed through the news media that a red alert exists, the geographical area(s) where the alert is applicable, the emission and type of

source(s) that initiated the alert, individual abatement actions which will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions;

*E. The director shall request very emphatically through the news media that all unnecessary use of automobiles be restricted and that all entertainment functions and facilities be closed; and*

*F. No open burning will be allowed anywhere within the affected area.]*

| <b>Table C</b>  |   |   |
|---|---|---|
| <b>Procedures</b>   |   |   |
| <b>Red (151-200)</b>  | <b>Purple (201-300)</b>   | <b>Maroon (301-500)</b>   |
| The general public shall be informed through the news media that an alert of this level exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions that will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions. | The general public shall be informed through the news media that an alert of this level exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions that will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions. | The general public shall be informed through the news media that an alert of this level exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions that will help alleviate the problem, and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions. |
| All affected governmental control agencies shall be notified of the existing alert level and that coordination of action is required.   | All affected governmental control agencies shall be notified of the existing alert level and that coordination of action is required.   | All affected governmental control agencies shall be notified of the existing alert level and that coordination of action is required.   |
| All hospitals within the affected area shall be notified of the existing alert level and be prepared for an increase in the number of patients seeking treatment.   | All hospitals within the affected area shall be notified of the existing alert level and be prepared for an increase in the number of patients seeking treatment.   | All hospitals within the affected area shall be notified of the existing alert level and be prepared for an increase in the number of patients seeking treatment.   |
| The frequency of air monitoring shall be increased at all monitoring stations that are not continuous at intervals not exceeding one (1) hour with continual hourly review at a central control location, if this equipment is available and it is deemed necessary by the director.  | The frequency of air monitoring shall be increased at all monitoring stations that are not continuous at intervals not exceeding one (1) hour with continual hourly review at a central control location, if this equipment is available and it is deemed necessary by the director.  | The frequency of air monitoring shall be increased at all monitoring stations that are not continuous at intervals not exceeding one-half (1/2) hour with continual half-hour review at a central control location, if this equipment is available and it is deemed necessary by the director.  |
| All open burning shall cease throughout the affected area.  | All open burning and incineration shall cease throughout the affected area.   | All open burning and incineration shall cease throughout the affected area.   |



|  |  |   |
|--|--|---|
| <p>The general public shall be requested through the news media to restrict the unnecessary use of motor vehicles.</p> | <p>The general public shall be told through the news media that local vehicular traffic shall avoid certain areas and all unnecessary use of motor vehicles is restricted. Nonlocal vehicular traffic may be diverted around the affected area depending upon which pollutant(s) caused the existing conditions.</p> | <p>The use of motor vehicles is prohibited except in emergencies with the approval of local or state police.</p>  |
|  | <p>Airlines operating within the purple alert area shall be notified that those conditions exist and that a reduction of flights out of the airport may be required.</p>   | <p>All airplane flights originating within the area of the maroon emergency alert shall be cancelled.</p>   |
|  | <p>If requested by the director, facilities that are sources of air contaminant emissions are required to file alert plans in accordance with section (4) of this rule and shall be prepared to implement the plan upon notification by the director in the event of a purple alert.</p>                             | <p>If requested by the director, facilities that are sources of air contaminant emissions are required to file alert plans in accordance with section (4) of this rule and shall be prepared to implement the plan upon notification by the director in the event of a maroon emergency alert.</p>  |
|  |  | <p>All places of employment described as follows shall immediately cease operation during a maroon emergency alert: mining and quarrying; contract construction work; wholesale trade establishments; schools and libraries; governmental agencies except those needed to administer the air pollution alert program and other essential agencies determined by the director to be vital for public safety and welfare and needed to administer the provisions of this rule; retail trade stores except those dealing primarily in sale of food or pharmacies; banks, real estate agencies, insurance offices, and similar business; laundries, cleaners and dryers, beauty and barber shops, and photographic studios; amusement, recreational, gaming, and entertainment service establishments; automobile repair and automobile service garages; and advertising offices, consumer credit reporting, adjustment and collection agencies, printing and duplicating services, rental agencies, and commercial testing laboratories.</p> |
|  |  | <p>All manufacturing facilities except those required to submit alert plans shall institute action that will result in maximum reduction of air contaminants from their operations by ceasing, curtailing, or postponing operations to the extent possible without causing injury to persons or damage to equipment.</p>  |

*(D) Purple Alert*

1. Purple alert procedures shall be initiated by the director if the following conditions are met:

A. An Air Stagnation Advisory is in effect; and

B. The purple alert AQI value is equaled or exceeded at any one (1) monitoring station within the affected area.

2. The purple alert also can be initiated if—

A. The purple alert AQI value is equaled or exceeded as the arithmetic mean for twelve (12) consecutive hours and an Air Stagnation Advisory is in effect; or

B. The red alert AQI value is equaled or exceeded as the arithmetic mean for twenty-four (24) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received.

3. The following are purple alert procedures:

A. All affected governmental control agencies shall be notified that purple alert conditions exist and that coordination of action is required;

B. All hospitals within the affected area shall be notified that purple alert conditions exist;

C. The frequency of air monitoring shall be increased at all monitoring stations which are not continuous at intervals not exceeding one (1) hour with continual hourly review at a central control location, if this equipment is available and it is deemed necessary by the director;

D. The general public shall be informed through the news media that a purple alert exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiate the alert, individual abatement actions which will help alleviate the problem and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions;

E. Airlines operating within the purple alert area shall be notified that those conditions exist and that a reduction of flights out of the airport may be required;

F. Nonlocal vehicular traffic may be diverted around the purple alert area depending upon which pollutant(s) caused the alert;

G. Local vehicular traffic, through the news media, shall be told to avoid certain areas and emphatically told to restrict nonessential trips;

H. All incineration and open burning shall cease throughout the area; and

I. Facilities which are sources of air contaminant emissions and are required to file approved alert plans with the director for purple alert conditions shall initiate these plans upon notification by the director (see paragraph (3)(D)4.).

4. Purple alert plan objectives. AQI breakpoints from two hundred one to three hundred (201–300).

A. Air contaminant source. Electric power generating facilities—requirements for plan.

(I) Reduction of emission by utilization of fuels having low ash and sulfur content. Soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).

(II) Reduction of emissions by diverting electric power generation to facilities outside of area for which the alert is called.

B. Air contaminant source. Process steam generating facilities—requirements for plan.

(I) Reduction of emissions by utilization of fuels having low ash and sulfur content. Soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).

(II) Reduction of steam load demands consistent with continuing the operation of the plant.

C. Air contaminant source. Manufacturing industries of the following Standard Industrial Classification Manual (SIC) group designations: grain industries, group 20; paper

and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay and concrete product industries, group 32; primary metal industries, group 33—requirements for plan.

(I) Curtailing, postponing or deferring production and allied operations. Stopping all trade waste disposal practices which emit particles, gases, vapors or malodorous substances including incineration.

(II) Reducing heat load demands for processing to a minimum.

D. Air contaminant source. Other manufacturing facilities required to submit alert plans by the director—requirements for plan.

(I) Reduction of air contaminant emissions by curtailing or deferring production and allied operations. Stopping of all trade waste disposal practices which emit particles, gases, vapors or malodorous substances including incineration.

(II) Reduction of heat load demands for processing to a minimum.

E. Air contaminant source. Private, public and commercial refuse disposal operations—requirement for plan.

(I) Stopping of all open burning including disposal of trees and burning at fire-fighting schools, except as required for disposal of hazardous materials or other emergency needs.

(II) Operation of incinerators shall be limited to the hours between 10:00 a.m. and 2:00 p.m.

F. Air contaminant source. Transportation—requirement for plan. The unnecessary operation of any motor vehicle should be restricted.

*(E) Maroon Emergency Alert.*

1. Maroon emergency alert procedures shall be initiated by the director, if the following conditions are met:

A. An Air Stagnation Advisory is in effect; and

B. The maroon emergency alert AQI value is equaled or exceeded at any one (1) monitoring station within the advisory area.

2. The maroon emergency procedures can also be initiated if—

A. The maroon emergency alert AQI value is equaled or exceeded as the arithmetic mean of twelve (12) consecutive hours and a forecast of stagnation for the following twelve (12) hours is received;

B. The purple alert AQI value is equaled or exceeded as the arithmetic mean for twenty-four (24) hours and a forecast of stagnation for the following twelve (12) hours is received; or

C. The red alert AQI value is equaled or exceeded as the arithmetic mean for thirty-six (36) hours and a forecast of stagnation for the following twelve (12) hours is received.

3. The following are maroon emergency alert procedures:

A. All affected governmental control agencies shall be notified that a maroon emergency alert exists and that coordination of action is required;

B. All hospitals within the affected area shall be notified that a maroon emergency alert exists and to be so prepared;

C. The frequency of air monitoring shall be increased at all monitoring stations which are not continuous at intervals not exceeding one-half (1/2) hour with continual half-hour review at a central control location, if this equipment is available and it is deemed necessary by the director;

D. Open burning and incineration shall cease throughout the area;

E. Facilities which are sources of air contaminant emissions and are required to have filed approved plans with

the director shall initiate these plans upon notification by the director or his/her representative that air pollution emergency conditions exist (see paragraph (3)(E)4.);

F. The use of motor vehicles is prohibited except in emergencies with the approval of local or state police;

G. All manufacturing facilities except those listed in subparagraph (3)(E)3.E shall institute action that will result in maximum reduction of air contaminants from their operations by ceasing, curtailing or postponing operations to the extent possible without causing injury to persons or damage to equipment;

H. All airplane flights originating within the area of the maroon emergency alert shall be cancelled;

I. All places of employment described as follows immediately shall cease operation during the maroon emergency alert:

(I) Mining and quarrying;

(II) Contract construction work;

(III) Wholesale trade establishments;

(IV) Schools and libraries;

(V) Governmental agencies except those needed to administer air pollution alert program and other essential agencies determined by the director to be vital for public safety and welfare and needed to administer the provisions of this rule;

(VI) Retail trade stores except those dealing primarily in sale of food or pharmacies;

(VII) Banks, real estate agencies, insurance offices and similar business;

(VIII) Laundries, cleaners and dryers, beauty and barber shops and photographic studios;

(IX) Amusement, recreational, gaming and entertainment service establishments;

(X) Automobile repair and automobile service garages; and

(XI) Advertising offices, consumer credit reporting, adjustment and collection agencies, printing and duplicating services, rental agencies and commercial testing laboratories; and

J. The general public shall be informed through the news media that a maroon emergency alert exists, the geographical area(s) where the alert is applicable, the emission and type of source(s) that initiated the alert, individual abatement actions which will help alleviate the problem and encourage those with respiratory ailments or heart conditions to take the most appropriate and expedient precautions.

4. Maroon emergency alert plan objectives. AQI breakpoints from three hundred one to four hundred (301–400). All purple alert plans shall be continued. In addition, the following measures shall be taken:

A. Air contaminant source. Process steam generating facilities—requirements for plan.

(I) Maximum reduction of air contaminant emissions by utilization of fuels having the lowest ash and sulfur content.

(II) Maximum utilization of periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.) for soot blowing and boiler lancing. Prepare to implement the emergency plan submitted to the director.

B. Air contaminant source. Manufacturing industries of the following SIC group designations: grain industries, group 20; paper and allied products industries, group 26; chemical and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay and concrete product industries, group 32; primary metals industries, group 33—requirements for plan.

(I) Maximum reduction of air contaminant emissions by, if necessary, postponing production and allied operations.

(II) Maximum reduction of heat load demands for processing. Prepare to implement the emergency plan submitted to the director;

C. Air contaminant source. Other manufacturing facilities required to submit alert plans by the director—requirements for plan. Maximum reduction of air contaminant emissions, if necessary, by postponing production and allied operations;

D. Air contaminant source. Private, public and commercial refuse disposal operations—requirement for plan. Stop operation of all incinerators; and

E. Air contaminant source. Transportation—requirement for plan. Car pools and public transportation must be used in place of unnecessary motor vehicle operation.

5. Maroon emergency alert plan objectives. AQI breakpoints from four hundred one to five hundred (401–500). All purple alert plans and maroon emergency alert plan from AQI breakpoints three hundred one to four hundred (301–400) shall be continued. In addition, the following measures shall be taken:

A. Air contaminant source. Process steam generating facilities—requirements for plan.

(I) Maximum reduction of air contaminant emissions by reducing heat and steam load demands to values consistent with preventing equipment damage.

(II) Maximum utilization of periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.) for soot blowing and boiler lancing;

B. Air contaminant source. Manufacturing industries of the following SIC group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay and concrete product industries, group 32; primary metals industries, group 33—requirement for plan. Elimination of air contaminant from the manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment;

C. Air contaminant source. Other manufacturing facilities required to submit alert plans by the director—requirements for plan.

(I) Elimination of air contaminant emissions from the manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

(II) Maximum reduction of heat load demands for processing;

D. Air contaminant source. Private, public and commercial operations—requirement for plan. The following places of employment, if notified by the director, immediately shall cease operations: mining and quarrying operations; construction projects except as required to avoid emergent physical harm; manufacturing establishments except those required to have in force an air pollution alert plan; wholesale trade establishments; governmental units, except as required to implement the provisions of this rule and other operations essential to immediate protection of the public welfare and safety; retail trade and service establishments except pharmacies, food stores and other similar operations providing for emergency needs; other commercial service operations, such as those engaged in banking, insurance, real estate, advertising, and the like; educational institutions; and amusement, recreational, gaming, and entertainment facilities;

E. Air contaminant source. Transportation—requirement for plan. Motor vehicles shall only be used for private and public emergency needs.]

(4) Reporting and Record Keeping. Facilities *[which]* that are sources of air contaminant emissions and required to file *[approved]* alert plans per *[paragraphs (3)(D)4., (3)(E)4., and (3)(E)5.]* **Table C of this rule** shall file *[approved]* purple and maroon alert plans **with the director** within sixty (60) days *[with the director after request by the director to submit alert plans]* of the director's request. Alert plans shall—

(A) Address the objectives provided in Tables D, E, and F; and

(B) Include the planning necessary for implementation.

Updated alert plans shall be provided when changes to operations necessitate amending the alert plan.

| <b>Table D</b>   |  |
|--|--|
| <b>Purple Alert (201-300) Plan Objectives</b>  |  |
| <b>Sources</b>   | <b>Objectives</b>  |
| Electric power generating facilities   | Reduction of emissions by diverting electric power generation to facilities outside of area for which the alert is called.   |
|  | If applicable, reduce emissions by utilization of fuels having low ash and sulfur content. If applicable, soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).                |
| Process steam generating facilities  | Reduction of steam load demands consistent with continuing the operation of the plant.   |
|  | If applicable, reduce emissions by utilization of fuels having low ash and sulfur content. If applicable, soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).                |
| Manufacturing industries of the following Standard Industrial Classification Manual (SIC) group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay, and concrete product industries, group 32; primary metal industries, group 33 | Reduction of heat load demands for processing to a minimum.  |
|  | Reduction of air contaminant emissions by curtailing, postponing, or deferring production and allied operations. Stoppage of all trade waste disposal practices that emit particles, gases, vapors, or malodorous substances including incineration. |
| Other manufacturing facilities required to submit alert plans by the director  | Reduction of heat load demands for processing to a minimum.  |
|  | Reduction of air contaminant emissions by curtailing, postponing, or deferring production and allied operations. Stoppage of all trade waste disposal practices that emit particles, gases, vapors, or malodorous substances including incineration. |
| Private, public, and commercial operations   | For refuse disposal, stoppage of all open burning including disposal of trees and burning at fire-fighting schools, except as required for disposal of hazardous materials or other emergency needs.   |
|  | For refuse disposal, operation of incinerators shall cease per Table C of this rule.   |
| Transportation   | See Table C of this rule for motor vehicle restrictions.   |

| <b>Table E</b>   |   |
|--|---|
| <b>Maroon Emergency Alert (301-400) Plan Objectives</b>  |   |
| <b>Sources</b>   | <b>Objectives</b>   |
| Electric power generating facilities   | Reduction of emissions by diverting electric power generation to facilities outside of area for which the alert is called.  |
|  | If applicable, reduce emissions by utilization of fuels having low ash and sulfur content. If applicable, soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).             |
| Process steam generating facilities  | If applicable, obtain maximum reduction of air contaminant emissions by utilization of fuels having the lowest ash and sulfur content.  |
|  | If applicable, maximize use of periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.) for soot blowing and boiler lancing.  |
| Manufacturing industries of the following Standard Industrial Classification Manual (SIC) group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay, and concrete product industries, group 32; primary metal industries, group 33 | Maximum reduction of heat load demands for processing.  |
|  | Maximum reduction of air contaminant emissions by, if necessary, postponing production and allied operations. Stoppage of all trade waste disposal practices that emit particles, gases, vapors, or malodorous substances including incineration. |
| Other manufacturing facilities required to submit alert plans by the director  | Maximum reduction of heat load demands for processing.  |
|  | Maximum reduction of air contaminant emissions by, if necessary, postponing production and allied operations. Stoppage of all trade waste disposal practices that emit particles, gases, vapors, or malodorous substances including incineration. |
| Private, public, and commercial operations   | For refuse disposal, stoppage of all open burning including disposal of trees and burning at fire-fighting schools, except as required for disposal of hazardous materials or other emergency needs.  |
|  | For refuse disposal, operation of incinerators shall cease per Table C of this rule.  |
| Transportation   | See Table C of this rule for motor vehicle restrictions.  |

| <b>Table F</b>   |  |
|--|--|
| <b>Maroon Emergency Alert (401-500) Plan Objectives</b>  |  |
| <b>Sources</b>   | <b>Objectives</b>  |
| Electric power generating facilities   | Reduction of emissions by diverting electric power generation to facilities outside of area for which the alert is called.   |
|  | If applicable, reduce emissions by utilization of fuels having low ash and sulfur content. If applicable, soot blowing and boiler lancing to be allowed only during periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.).  |
| Process steam generating facilities  | Maximum reduction of air contaminant emissions by reducing heat and steam load demands to values consistent with preventing equipment damage.  |
|  | If applicable, maximize use of periods of high atmospheric turbulence (12:00 noon to 4:00 p.m.) for soot blowing and boiler lancing.   |
| Manufacturing industries of the following Standard Industrial Classification Manual (SIC) group designations: grain industries, group 20; paper and allied products industries, group 26; chemicals and allied products industries, group 28; petroleum refining and related industries, group 29; stone, glass, clay, and concrete product industries, group 32; primary metal industries, group 33 | Maximum reduction of heat load demands for processing.   |
|  | Elimination of air contaminant emissions from the manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.  |
| Other manufacturing facilities required to submit alert plans by the director  | Maximum reduction of heat load demands for processing.   |
|  | Elimination of air contaminant emissions from the manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.  |
| Private, public, and commercial operations   | For refuse disposal, stoppage of all open burning including disposal of trees and burning at fire-fighting schools, except as required for disposal of hazardous materials or other emergency needs.   |
|  | For refuse disposal, operation of incinerators shall cease per Table C of this rule.   |
|  | The following places of employment, if notified by the director, immediately shall cease operations: mining and quarrying operations; construction projects except as required to avoid emergent physical harm; manufacturing establishments except those required to have in force an air pollution alert plan; wholesale trade establishments; governmental units, except as required to implement the provisions of this rule and other operations essential to immediate protection of the public welfare and safety; retail trade and service establishments except pharmacies, food stores, and other similar operations providing for emergency needs; other commercial service operations, such as those engaged in banking, insurance, real estate, advertising, and the like; educational institutions; and amusement, recreational, gaming, and entertainment facilities. |
| Transportation   | See Table C of this rule for motor vehicle restrictions.   |

*AUTHORITY: section 643.050, RSMo [2000] Supp. 2012. Original rule filed May 11, 1984, effective Oct. 11, 1984. Amended: Filed Jan. 5, 1988, effective April 28, 1988. Amended: Filed March 13, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 24, 2009, effective May 30, 2010. Amended: Filed May 7, 2013.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m. July 24, 2013. The public hearing will be held at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Interested persons, whether or not heard, may submit a written or email statement of their views until 5:00 p.m., July 31, 2013. Written comments shall be sent to Chief, Air Quality Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102-0176. Email comments shall be sent to apcprulespn@dnr.mo.gov.*

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 20—Clean Water Commission  
Chapter 7—Water Quality**

**PROPOSED AMENDMENT**

**10 CSR 20-7.015 Effluent Regulations.** The department is amending sections (1), (2), (3), (4), (5), (6), and subsection (7)(A), and sections (8) and (9).

*PURPOSE: This amendment will 1) update bacteria limits and monitoring requirements; 2) revise language regarding "bypasses" to align with federal definition; 3) require quarterly effluent monitoring of nutrient concentrations at large wastewater treatment facilities; 4) provide clarification regarding whole effluent toxicity testing requirements; 5) allow for electronic reporting via web-based systems (once available); 6) include provisions for developing effluent limits with regard to several situations such as discharges to impaired waters, tiered limits which allow higher discharge concentrations during higher stream flow rates, and the use of local stream data to adjust effluent limits; 7) reduce monitoring frequency for facilities that consistently comply with effluent limits; 8) eliminate schedule to comply with phosphorus effluent limits for discharges to Table Rock Lake and Lake Tanycomo because the dates have already passed; 9) require limits for the discharge of nitrates that may impact specific drinking water wells; 10) specify that operating permits may include schedules of compliance in accordance with federal regulations; 11) revert to pH effluent limits that were in a previous version of the regulation; 12) allow alternate compliance points for discharges to subsurface waters; and 13) reorganize and clarify several elements of the rule.*

(1) Designations of Waters of the State.

(A) For the purpose of this rule, the waters of the state are divided into the following categories:

1. The Missouri and Mississippi Rivers (**section (2) of this rule**);

2. Lakes and reservoirs, including natural lakes and any impoundments created by the construction of a dam across any waterway or watershed. An impoundment designed for or used as a disposal site for tailings or sediment from a mine or mill shall be considered a wastewater treatment device and not a lake or reservoir. Releases to lakes and reservoirs include discharges into streams one-

half (1/2) stream mile (.80 km) before the stream enters the lake as measured to its normal full pool (**section (3) of this rule**);

3. A losing stream is a stream which distributes thirty percent (30%) or more of its flow through natural processes such as through permeable geologic materials into a bedrock aquifer within two (2) miles ['] flow distance downstream of an existing or proposed discharge. Flow measurements to determine percentage of water loss must be corrected to approximate the seven (7)-day  $Q_{10}$  stream flow. If a stream bed or drainage way has an intermittent flow or a flow insufficient to measure in accordance with this rule, it may be determined to be a losing stream on the basis of channel development, valley configuration, vegetation development, dye tracing studies, bedrock characteristics, geographical data, and other geological factors. Only discharges which in the opinion of the Missouri Department of Natural Resources (**department**) reach the losing section and which occur within two (2) miles upstream of the losing section of the stream shall be considered releases to a losing stream. A list of known losing streams is available in the Water Quality Standards, 10 CSR 20-7.031 Table J—Losing Streams. Other streams may be determined to be losing by the department (**section (4) of this rule**);

4. Metropolitan no-discharge streams. These streams and the limitations on discharging to them are listed in [*the commission's Water Quality Standards*] **Table F of 10 CSR 20-7.031 Water Quality Standards**. This rule shall in no way change, amend, or be construed to allow a violation of the existing or future water quality standards (**section (5) of this rule**);

5. Special streams—[*wild and scenic rivers, Ozark National Scenic Riverways,*] **Outstanding National Resource Waters** and **Outstanding State Resource Waters, as listed in Tables D and E of 10 CSR20-7.031(section (6) of this rule)**;

6. Subsurface waters in aquifers (**section (7) of this rule**); and

7. All other waters except as noted in paragraphs (1)(A)1.-6. of this rule (**section (8) of this rule**).

**(B) Sections (2) through (8) of this rule establish requirements for discharges to the waters specified in these sections, and the requirements of section (9) of this rule apply to all discharges. The requirements of this rule do not apply to stormwater discharges; effluent limits for stormwater discharges are prescribed in 10 CSR 20-6.200 Storm Water Regulations.**

(2) Effluent Limitations for the Missouri and Mississippi Rivers. The following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility.

(A) Discharges from wastewater treatment facilities which receive primarily domestic waste or from publicly-owned treatment works (POTWs) shall undergo treatment sufficient to conform to the following limitations:

1. Biochemical Oxygen Demand<sub>5</sub> (BOD<sub>5</sub>) and Total Suspended Solids (TSS) equal to or less than a monthly average of thirty milligrams per liter (30 mg/L) and a weekly average of forty-five milligrams per liter (45 mg/L);

2. pH shall be maintained in the range from six [*and one-half*] to nine [*(6.5-9.0)*] (**6-9**) standard units;

3. Exceptions to paragraphs (2)(A)1. and 2. of this rule are as follows:

A. If the facility is a wastewater lagoon, the TSS shall be equal to or less than a monthly average of eighty milligrams per liter (80 mg/L) and a weekly average of one hundred twenty milligrams per liter (120 mg/L) and the pH shall be maintained above six [*and one-half (6.5)*] **6.0**, and the BOD<sub>5</sub> shall be equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L);

B. If the facility is a trickling filter plant the BOD<sub>5</sub> and TSS shall be equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L);

C. Where the use of effluent limitations set *[forward]* forth in this section is known or expected to produce an effluent that will endanger or violate water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation *[for a total maximum daily load study]* is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the study;

D. The department may require more stringent limitations than authorized in *[subsection (3)(A)]* paragraphs (2)(A)1. and 2. and subparagraphs (2)(A)3.A., B., and C. of this rule under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD<sub>5</sub> and TSS limits based upon an analysis of the past performance, rounded up to the next five milligrams per liter (5 mg/L) range; and

(II) If the facility is a new facility, the department may set the BOD<sub>5</sub> and TSS limits based upon the design capabilities of the plant considering geographical and climatic conditions;

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD<sub>5</sub> equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L) and TSS equal to or less than a monthly average of seventy milligrams per liter (70 mg/L) and a weekly average of one hundred ten milligrams per liter (110 mg/L).

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent limitations should be BOD<sub>5</sub> and TSS equal to or less than a monthly average of forty milligrams per liter (40 mg/L) and a weekly average of sixty milligrams per liter (60 mg/L);

*[4. E. coli: Discharges to segments designated as whole body contact recreational or secondary contact recreational in Table H of 10 CSR 20-7.031 shall not exceed the water quality E coli counts established in 10 CSR 20-7.031(4)(C)2. Facilities without disinfected effluent shall comply with the implementation schedule found in subsection (9)(H) of this rule. During periods of wet weather, a temporary suspension of accountability for bacteria standards may be established through the process described in subsection (9)(I) of this rule;]*

*[5.]4.* Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and

*[6.]5.* When the wastewater treatment process causes nitrification which affects the BOD<sub>5</sub> reading, the permittee can petition the department to substitute carbonaceous BOD<sub>5</sub> in lieu of regular BOD<sub>5</sub> testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD<sub>5</sub> at five milligrams per liter (5 mg/L) less than the regular BOD<sub>5</sub> in the operating permit.

(C) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow that shall require, at a minimum, one (1) wastewater sample per year for each fifty thousand (50,000) gallons per day (gpd) of effluent, or fraction thereof, except that—

A. Point sources that discharge less than twenty-five thousand (25,000) gpd may only be required to submit an annual report;

B. *[Point sources that discharge more than one (1) million gallons per day (mgd) will be required, at a minimum, to collect twenty (20) wastewater samples per year unless the applicant can show that the wastewater has a consistent quality, such as once through cooling water or mine dewatering, then the department may set less frequent sampling requirements]* The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

C. Sludge sampling will be established in the permit~~;~~ and~~].~~

*[D. A minimum of one (1) sample shall be collected for E coli analysis each week during the recreational season from April 1 through October 31. Compliance with the E coli water quality standard established in paragraph (4)(C)2. of 10 CSR 20-7.031 shall be determined each calendar month by calculating the geometric mean of all of the samples collected each calendar month.]*

2. Sampling frequency shall be *[spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall collect samples on a regular evenly spaced schedule, while point sources with seasonal discharges shall collect samples evenly spaced during the season of discharge]* representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).

3. Sample types shall be as follows:

A. Samples collected from lagoons may be grab samples;

B. Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

C. Sludge samples will be grab samples unless otherwise specified in the operating permit.

4. The monitoring frequency and sample types stated in *[paragraph (2)(D)3.]* subsection (2)(C) of this rule are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(3) Effluent Limitations for the Lakes and Reservoirs.

(A) The following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility to a lake or reservoir designated in 10 CSR 20-7.031 as L2 and L3 which is publicly owned. Releases to lakes and reservoirs include discharges into streams one-half (1/2) stream mile (.80 km) before the stream enters the lake as measured to its normal full pool.

1. Discharges from wastewater treatment facilities which receive primarily domestic waste or from POTWs shall undergo treatment sufficient to conform to the following limitations:

A. BOD<sub>5</sub> and TSS equal to or less than a monthly average of twenty milligrams per liter (20 mg/L) and a weekly average of thirty milligrams per liter (30 mg/L);

B. pH shall be maintained in the range from six *[and one-half]* to nine *[[6.5–9.0]]* (6–9) standard units;

*[C. E coli: Discharges to lakes designated as whole body contact recreational or secondary contact recreational in Table G of 10 CSR 20-7.031 shall not exceed the water quality E coli counts established in paragraph (4)(C)2. of 10 CSR 20-7.031. Facilities without disinfected effluent shall comply with the implementation schedule found in subsection (9)(H) of this rule. During periods of wet weather, a temporary suspension of accountability for bacteria standards may be established through the process described in subsection (9)(I) of this rule;]*

*[D.]C.* Where the use of effluent limitations set forth in section (3) of this rule *[is known or expected to produce an effluent that will endanger or violate water quality]* are reasonably expected to exceed applicable water quality standards, the department may either—conduct waste load allocation studies in order to arrive at a limitation which protects the water quality of the state or set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the waste load allocation study;

*[E.]D.* Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater



treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and

*[F./E.* When the wastewater treatment process causes nitrification which affects the BOD<sub>5</sub> reading, the permittee can petition the department to substitute carbonaceous BOD<sub>5</sub> in lieu of regular BOD<sub>5</sub> testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD<sub>5</sub> at five milligrams per liter (5 mg/L) less than the regular BOD<sub>5</sub> in the operating permit.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow that will require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—

A. Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;

B. *[Point sources that discharge more than one point three (1.3) mgd will be required, at a minimum, to collect fifty-two (52) wastewater samples per year unless the applicant can show that the wastewater has a consistent quality, such as once through cooling water or mine dewatering, then the department may set less frequent sampling requirements]* The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

C. Sludge sampling will be established in the permit; *and*].

*[D. A minimum of one (1) sample shall be collected for E coli analysis each week during the recreational season from April 1 through October 31. Compliance with the E coli water quality standard established in paragraph (4)(C)2. of 10 CSR 20-7.031 shall be determined each calendar month by calculating the geometric mean of all of the samples collected each calendar month.]*

2. Sampling frequency shall be *[spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall collect samples on a regular evenly spaced schedule, while point sources with seasonal discharges shall collect samples evenly spaced during the season of discharge]* representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).

3. Sample types shall be as follows:

A. Samples collected from lagoons may be grab samples;

B. Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

4. The monitoring frequency and sample types stated in *[paragraph (3)(B)3.] subsection (3)(B)* of this rule are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(F) In addition to other requirements in this section, discharges to Table Rock Lake watershed, defined as hydrologic units numbered 11010001 and 11010002, shall not exceed five-tenths milligrams per liter (0.5 mg/L) of phosphorus as a monthly average *[according to the following schedules]* except those *[as noted in paragraph (3)(F)5. of this rule.*

1. *Any new discharge shall comply with this new requirement upon the start of operations;*

2. *Any existing discharge, or any sum of discharges operated by a single continuing authority, with a design flow of one (1.0) mgd or greater shall comply no later than November 30, 2003;*

3. *Any existing discharge, or any sum of discharges operated by a single continuing authority, with a design flow of one-tenth (0.1) mgd or greater, but less than one (1.0)*

*mgd, shall comply no later than November 30, 2007, and shall not exceed one milligram per liter (1.0 mg/L) as a monthly average as soon as possible and no later than November 30, 2003;*

4. *Any existing discharge with a design flow of twenty-two thousand five hundred (22,500) gpd or greater, but less than one tenth (0.1) mgd, shall comply no later than November 30, 2007;*

5. *Any existing discharges with [a] design flows of less than twenty-two thousand five hundred (22,500) gpd permitted prior to November 30, 1999, [shall be exempt from this requirement] unless the design flow is increased; and*

6. *Any existing discharge in which the design flow is increased shall comply according to the schedule applicable to the final design flow].*

(4) Effluent Limitations for Losing Streams.

(B) If the department agrees to allow a *[release] discharge from a wastewater treatment facility* to a losing stream, the permit will be written using the limitations contained in subsections (4)(B) and (C) of this rule. Discharges from **private** wastewater treatment facilities which receive primarily domestic waste, **industrial sources that treat influents containing significant amounts of organic loading**, or *[from] POTWs* permitted under this section shall undergo treatment sufficient to conform to the following limitations:

1. BOD<sub>5</sub> equal to or less than a monthly average of ten milligrams per liter (10 mg/L) and a weekly average of fifteen milligrams per liter (15 mg/L);

2. TSS equal to or less than a monthly average of fifteen milligrams per liter (15 mg/L) and a weekly average of twenty milligrams per liter (20 mg/L);

3. pH shall be maintained in the range from six *[and one-half]* to nine *[(6.5–9.0)] (6–9)* standard units;

*[4. E coli: Discharges shall not exceed the water quality E coli counts established in paragraph (4)(C)2. of 10 CSR 20-7.031;]*

*[5.]4.* All chlorinated effluent discharges to losing streams or within two (2) stream miles flow distance upstream of a losing stream shall also be dechlorinated prior to discharge;

*[6.]5.* Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; *[and]*

*[7.]6.* When the wastewater treatment process causes nitrification which affects the BOD<sub>5</sub> reading, the permittee can petition the department to substitute carbonaceous BOD<sub>5</sub> in lieu of regular BOD<sub>5</sub> testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD<sub>5</sub> at five milligrams per liter (5 mg/L) less than the regular BOD<sub>5</sub> in the operating permit.; **and**

**7. For situations in which nitrates in a discharge can be reasonably expected to impact specific drinking water wells, the concentration of nitrates in the discharge shall be limited to an average monthly limit of ten milligrams per liter (10 mg/L) as nitrogen and a maximum daily limit of twenty milligrams per liter (20 mg/L). Applicants may conduct a study in the same manner as the Missouri Risk-Based Corrective Action Technical Guidance published in 2006 to determine if nitrate limits are necessary to protect groundwater. In such cases, applicants shall submit a study plan for approval prior to the study, and submit all findings as part of their permit application.**

(C) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow that shall require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—

A. Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;

B. *[Point sources that discharge more than one point three (1.3) mgd will be required, at a minimum, to collect fifty-two (52) wastewater samples per year unless the applicant can show that the wastewater has a consistent quality, such as once through cooling water or mine dewatering, then the department may set less frequent sampling requirements]* **The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and**

C. Sludge samples will be established in the permit; *and*].

*[D. A minimum of one (1) sample shall be collected for E coli analysis each week during the recreational season from April 1 through October 31. Compliance with the E coli water quality standard established in paragraph (4)(C)2. of 10 CSR 20-7.031 shall be determined each calendar month by calculating the geometric mean of all of the samples collected each calendar month.]*

2. Sampling frequency shall be *[spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall collect samples on a regular evenly spaced schedule, while point sources with seasonal discharges shall collect samples evenly spaced during the season of discharge]* **representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).**

3. Sample types shall be as follows:

A. Samples collected from lagoons **and recirculating sand filters** may be grab samples;

B. Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

C. Sludge samples shall be a grab sample unless otherwise specified in the operating permit.

4. The monitoring frequency and sample types stated in *[paragraph (4)(C)3.] subsection (4)(C)* of this rule are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(5) Effluent Limitations for Metropolitan No-Discharge Streams.

*[(B) All permits for discharges to these streams shall be written to ensure compliance with the Water Quality Standards.]*

*[(C)](B) Monitoring Requirements.*

1. The department will develop a wastewater and sludge sampling program based on design flow that shall require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—

A. Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;

B. Point sources that discharge more than one point three (1.3) mgd will be required, at a minimum, to collect fifty-two (52) wastewater samples per year; **and**

C. Sludge sampling will be established in the permit; *and*].

*[D. A minimum of one (1) sample shall be collected for E coli analysis each week during the recreational season from April 1 through October 31. Compliance with the E coli water quality standard established in paragraph (4)(C)2. of 10 CSR 20-7.031 shall be determined each calendar month by calculating the geometric mean of all of the samples collected each calendar month.]*

2. Sampling frequency shall be *[spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall collect samples on a regular evenly spaced schedule, while point sources with seasonal discharges shall collect samples evenly spaced during the season of discharge]* **representative of the discharge during the**

**period the sampling covers (daily, weekly, monthly, seasonally, etc.).**

3. Sample types shall be as follows:

A. Samples collected from lagoons may be grab samples;

B. Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

C. Sludge samples shall be a grab sample unless otherwise specified in the operating permit.

4. The monitoring frequency and sample types stated in *[paragraph (5)(C)3.] subsection (5)(B)* of this rule are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(6) Effluent Limitations for Special Streams.

(A) Limits for *[Wild and Scenic Rivers and Ozark National Scenic Riverways] Outstanding National Resource Waters as listed in Table D of 10 CSR 20-7.031* and Drainages Thereto.

1. The following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility to waters included in this section.

2. Discharges from wastewater treatment facilities, which receive primarily domestic waste, or from POTWs are limited as follows:

A. New releases from any source are prohibited;

B. Discharges from sources that existed before June 29, 1974, or if additional stream segments are placed in this section, discharges that were permitted at the time of the designation will be allowed.

3. Industrial, agricultural, and other non-domestic contaminant sources, point sources, or wastewater treatment facilities which are not included under subparagraph (6)(A)2.B. of this rule shall not be allowed to discharge. Agrichemical facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agrichemical facility, all transferring, loading, unloading, mixing, and repackaging of bulk agrichemicals shall be conducted in an operational area. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner.

4. Monitoring requirements.

A. The department will develop a wastewater and sludge sampling program based on design flow that will require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—

(I) Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;

(II) Point sources that discharge more than one point three (1.3) mgd will be required at a minimum to collect fifty-two (52) wastewater samples per year; and

(III) Sludge sampling will be established in the permit.

B. Sampling frequency shall be *[spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall collect samples on a regular evenly spaced schedule, while point sources with seasonal discharges shall collect samples evenly spaced during the season of discharge]* **representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).**

C. Sample types shall be as follows:

(I) Samples collected from lagoons may be grab samples;

(II) Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

(III) Sludge samples shall be a grab sample unless otherwise specified in the operating permit.

D. The monitoring frequency and sample types stated in paragraph (6)/(D)3.(A)4. of this rule are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(B) Limits for Outstanding State Resource Waters *[as per Water Quality Standards]* as listed in Table E of 10 CSR 20-7.031.

1. Discharges shall not cause the current water quality in the streams to be lowered.

2. Discharges will be permitted as long as the requirements of paragraph (6)(B)1. of this rule are met and the limitations in section (8) of this rule are not exceeded.

(7) Effluent Limitations for Subsurface Waters.

(A) No person shall release any water into aquifers, store or dispose of water in a way which causes or permits it to enter aquifers either directly or indirectly unless it meets the appropriate groundwater protection criteria set in 10 CSR 20-7.031, Table A at a point ten feet (10') under the release point, **or other compliance point based on site specific considerations**, except as provided in subsections (7)(E) and (F) of this rule. The permit writer shall review the complete application and other data to determine which parameter to include in the permit.

(8) Effluent Limitations for All Waters, Except Those in Paragraphs (1)(A)1.-6. of This Rule. The following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility.

(A) Discharges from wastewater treatment facilities which receive primarily domestic waste or POTWs shall undergo treatment sufficient to conform to the following limitations:

1. BOD<sub>5</sub> and TSS equal to or less than a monthly average of thirty milligrams per liter (30 mg/L) and a weekly average of forty-five milligrams per liter (45 mg/L);

2. pH shall be maintained in the range from six *[and one-half]* to nine *[(6.5-9.0)]* (6-9) standard units;

3. The limitations of paragraphs (8)/(B)/(A)1. and 2. of this rule will be effective unless *[a water quality impact study has been conducted by the department, or conducted by the permittee and approved by the department, showing that]* an alternate limitation will not cause violations of the Water Quality Standards or impairment of the uses in the standards. When *[a water quality impact study]* an **Antidegradation Review** has been completed *[to the satisfaction of the department]* for new or expanded discharges, the following alternate limitation may also be allowed:

A. If the facility is a wastewater lagoon, the TSS shall be equal to or less than a monthly average of eighty milligrams per liter (80 mg/L) and a weekly average of one hundred twenty milligrams per liter (120 mg/L) and the pH shall be maintained above six *[and one-half (6.5)]* (6.0) and the BOD<sub>5</sub> shall be equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L);

B. If the facility is a trickling filter plant, the BOD<sub>5</sub> and TSS shall be equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L);

C. Where the use of effluent limitations set forth in section (8) of this rule is known or expected to produce an effluent that will endanger water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation study is conducted for a stream or stream segment, all permits for discharges in the

study area shall be modified to reflect the limits established in the waste load allocation study; and

D. The department may require more stringent limitations than authorized in *[subsections (3)(A) and (B)]* paragraphs (8)(A)1. and 2. and subparagraphs (8)(A)3.A., B., and C. of this rule under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD<sub>5</sub> and TSS limits based upon an analysis of the past performance, rounded up to the next five milligrams per liter (5 mg/L) range; and

(II) If the facility is a new facility the department may set the BOD<sub>5</sub> and TSS limits based upon the design capabilities of the plant considering geographical and climatic conditions:

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD<sub>5</sub> equal to or less than a monthly average of forty-five milligrams per liter (45 mg/L) and a weekly average of sixty-five milligrams per liter (65 mg/L) and TSS equal to or less than a monthly average of seventy milligrams per liter (70 mg/L) and a weekly average of one hundred ten milligrams per liter (110 mg/L); or

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent limitations should be BOD<sub>5</sub> and TSS equal to or less than a monthly average of forty milligrams per liter (40 mg/L) and a weekly average of sixty milligrams per liter (60 mg/L);

4. *E. coli*. The following water quality *E. coli* discharge limits apply to all waters, except those in paragraphs (1)(A)1.-6. of this rule:

A. Discharges to stream segments designated as whole body contact recreational or secondary contact recreational in Table H of 10 CSR 20-7.031 shall not exceed the water quality *E. coli* counts established in paragraph (4)(C)2. of 10 CSR 20-7.031;

B. Discharges to privately-owned lakes classified as L3, as defined in subsection (1)(F) of 10 CSR 20-7.031, that are designated as whole body contact recreational or secondary contact recreational in Table G of 10 CSR 20-7.031 shall not exceed the water quality *E. coli* counts established in paragraph (4)(C)2. of 10 CSR 20-7.031. Discharges include releases into streams one-half (1/2) stream mile (.80 km) before the stream enters the lake as measured to its normal full pool;

C. Discharges located within two (2) miles upstream of stream segments or lakes designated for whole body contact recreational or secondary contact recreational in Tables H and G of 10 CSR 20-7.031 shall not exceed the water quality *E. coli* counts established in paragraph (4)(C)2. of 10 CSR 20-7.031 for the receiving stream segment or lake designated for those uses. As an alternative, the department may allow permit applicants to conduct a time of travel study for use in developing water quality discharge limits calculated using the following first order decay equation:

$$C_0 = C_{(t)}e^{kt}$$

Where:

$C_0$  = concentration of *E. coli* at the outfall, which becomes the effluent limit;

$C_{(t)}$  = the water quality *E. coli* count established in paragraph (4)(C)2. of 10 CSR 20-7.031 for the receiving stream segment or lake that is designated as whole body contact recreational or secondary contact recreational in Tables H and G of 10 CSR 20-7.031;

$e$  = the natural logarithmic constant;

$k$  = decay constant for *E. coli* (use 0.75 inverse days as a default or value may be determined by sampling analysis); and

$t$  = time required for effluent to flow from the outfall to the confluence with the closest classified receiving stream segment or lake during dry weather conditions in units of days; and

*D. Facilities without disinfected effluent shall comply with the implementation schedule found in subsection (9)(H) of this rule. During periods of wet weather, a temporary suspension of accountability for bacteria standards may be established through the process described in subsection (9)(I) of this rule;*

[5.]4. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and

[6.]5. When the wastewater treatment process causes nitrification which affects the BOD<sub>5</sub> reading, the permittee can petition the department to substitute carbonaceous BOD<sub>5</sub> in lieu of regular BOD<sub>5</sub> testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD<sub>5</sub> at five milligrams per liter (5 mg/L) less than the regular BOD<sub>5</sub> in the operating permit.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow that will require, at a minimum, one (1) wastewater sample per year for each fifty thousand (50,000) gpd of effluent, or fraction thereof, except that—

A. Point sources that discharge less than twenty-five thousand (25,000) gpd may only be required to submit an annual report;

B. [Point sources that discharge more than one (1) mgd will be required at a minimum to collect twenty (20) wastewater samples per year unless the applicant can show that the wastewater has a consistent quality, such as once through cooling water or mine dewatering, then the department may set less frequent sampling requirements] The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

C. Sludge sampling will be established in the permit; and].

[D. A minimum of one (1) sample shall be collected for *E. coli* analysis each week during the recreational season from April 1 through October 31. Compliance with the *E. coli* water quality standard established in paragraph (4)(C)2. of 10 CSR 20- 7.031 shall be determined each calendar month by calculating the geometric mean of all of the samples collected each calendar month].

2. Sampling frequency shall be [spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall collect samples on a regular evenly spaced schedule, while point sources with seasonal discharges shall collect samples during the season of discharge] representative of the discharge during the period the sampling covers (daily, weekly, monthly, seasonally, etc.).

3. Sample types shall be as follows:

A. Samples collected from lagoons may be grab samples;

B. Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

C. Sludge samples shall be a grab sample unless otherwise specified in the operating permit.

4. The monitoring frequency and sample types stated in [paragraph (8)(C)3.] subsection (8)(B) of this rule are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(9) General Conditions.

(A) Establishing Effluent Limitations. Operating Permits as required under 10 CSR 20-6.010(5) shall include, if applicable, the most protective limits set forth as follows:

1. Technology-based effluent limits and standards based on specific requirements under sections (2) through (8) of this rule;

2. Water quality-based effluent limits based on a waste load allocation in accordance with federal regulations (40 CFR 122.44(d)(1)), which would address pollutants that have a reasonable potential to cause or contribute to an excursion above Water Quality Standards established in 10 CSR 20-7.031. The director shall develop and maintain guidance and methods for determining water quality-based effluent limits.

A. Local effluent and receiving water data may be used to develop site specific effluent limits provided the department determines that this data is representative. Examples include in-stream hardness for the development of site specific metals limits, total dissolved metals translators, and water effects ratios.

B. Water quality-based effluent limitations incorporating mixing zones and zones of initial dilution as provided for in 10 CSR 20-7.031(4)(A)4.B. may be based on stream flows other than critical low-flow conditions, if the following conditions are met:

(I) The limits are protective of critical low-flow conditions, as well as higher flow conditions;

(II) In the case of existing discharges, flow-variable limits shall not allow the discharge to increase its pollutant loading from levels it has previously been able to achieve, unless supported by a waste load allocation as part of an approved Total Maximum Daily Load (TMDL); and

(III) The permit shall require in-stream flow measurements and methods to determine compliance;

3. Effluent limit guidelines or standards that have been federally promulgated under Sections 301, 304, 306, 307, 318, and 405 of the Clean Water Act;

4. Effluent limits prescribed for specific pollutants under a TMDL, as required under Section 303(d)(1)(C) of the Clean Water Act, necessary to achieve water quality standards, including permit limits in lieu of a TMDL. TMDL waste load allocations shall be placed in permits at renewal, and in subsequent renewals as needed, based on appropriate schedules, technological feasibility and practicability, or in accordance with the TMDL implementation plan if one has been developed. The department may reopen existing permits to implement TMDL requirements;

5. Effluent limits that are developed through the antidegradation review process, provided there is reasonable potential to exceed these limits, including No Degradation Effluent Limits (NDELs), Minimally Degrading Effluent Limits (MDELs), and Preferred Alternative Effluent Limits (PELs) that are associated with the selection of a preferred alternative;

6. Effluent limits prescribed for stormwater discharges as required under 10 CSR 20-6.200 Storm Water Regulations; and

7. Effluent Limits that are required as a result of legal agreements between dischargers and the department or the Clean Water Commission, or are the result of formal variances from Water Quality Standards that are approved by the Clean Water Commission, or as otherwise required or allowed by law.

(B) Bacteria and Nutrient Limits. Operating Permits as required under 10 CSR 20-6.010(5) shall include, if applicable, the following bacteria and nutrient limits:

1. Bacteria. The following water quality *Escherichia coli* (*E. coli*) discharge limits apply:

A. Discharges to stream segments designated in Table H of 10 CSR 20-7.031 for whole body contact recreation and secondary contact recreation shall not exceed the water quality *E. coli* counts established in subsection (4)(C) of 10 CSR 20-7.031;

B. Discharges to lakes designated as whole body contact recreational or secondary contact recreational in Table G of 10 CSR 20-7.031 shall not exceed the water quality *E. coli* counts established in subsection (4)(C) of 10 CSR 20-7.031;

C. Discharges to privately-owned lakes classified as L3, as defined in subsection (1)(F) of 10 CSR 20-7.031, that are designated as whole body contact recreational or secondary contact recreational in Table G of 10 CSR 20-7.031 shall not exceed the

water quality *E. coli* counts established in subsection (4)(C) of 10 CSR 20-7.031. Discharges include releases into streams one-half (1/2) stream mile (.80 km) before the stream enters the lake as measured to its normal full pool;

D. Discharges located within two (2) miles upstream of stream segments or lakes designated for whole body contact recreational or secondary contact recreational in Tables H and G of 10 CSR 20-7.031 shall not exceed the water quality *E. coli* counts established in subsection (4)(C) of 10 CSR 20-7.031 for the receiving stream segment or lake designated for those uses;

E. Short-term *E. coli* limits. During the recreation season, discharges to waters designated for whole body contact "A" as defined in paragraph (1)(C)8. of 10 CSR 20-7.031 shall be limited to six hundred thirty (630) colony forming units per one hundred (100) milliliters (ml) expressed as a weekly geometric mean for POTWs and as a daily maximum for non-POTWs. During the recreation season, discharges to waters designated for whole body contact "B" as defined in paragraph (1)(C)8. of 10 CSR 20-7.031 shall be limited to one thousand thirty (1,030) colony forming units per one hundred (100) ml expressed as a weekly geometric mean for POTWs and as a daily maximum for non-POTWs. During the recreation season, discharges to waters designated for secondary contact recreational as defined in paragraph (1)(C)9. of 10 CSR 20-7.031 shall be limited to one thousand one hundred thirty-four (1,134) colony forming units per one hundred (100) ml expressed as a weekly geometric mean for POTWs and as a daily maximum for non-POTWs. For the entire calendar year, discharges to waters that are defined by paragraph (1)(A)3. of this rule as losing streams shall be limited to one hundred twenty-six (126) colony forming units per one hundred (100) ml expressed as a daily maximum;

F. As an alternative to the limits prescribed in subparagraphs (9)(B)2.A. through E., the department may allow permit applicants to conduct a study to develop *E. coli* limits that reflect pathogen decay. Prior to conducting this study applicants shall submit a quality assurance project plan for approval prior to the study, and submit all findings as part of their permit application; and

G. Notwithstanding the bacteria limits prescribed in paragraphs (9)(1)A. through F. of this rule, discharges to losing streams shall be considered in compliance so long as less than ten (10) percent of samples exceed one-hundred twenty-six (126) colony forming units per one hundred (100) ml daily maximum; and

#### 2. Nutrients. Reserved for Nutrient Effluent Limits.

##### (C) Schedules of Compliance.

1. Compliance with new or revised National Pollutant Discharge Elimination System (NPDES) or Missouri operating permit limitations shall be achieved and in accordance with the federal regulation 40 CFR Part 122.47, "Schedules of Compliance," May 15, 2000, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which is hereby incorporated by reference and does not include later amendments or additions.

2. If any permit allows a time for achieving final compliance from the date of permit issuance, the schedule of compliance in the permit shall set forth interim requirements and the dates for their achievement.

3. Within fourteen (14) days following each interim date and the final date of compliance, the permittee shall provide the department with written notice of the permittee's compliance or noncompliance with the interim or final requirement for the dates.

4. The department may modify a schedule of compliance in an issued permit. Applicants may request a modification by providing appropriate justification. In no case shall the compliance schedule be modified to extend beyond an applicable statutory

deadline.

[(A)](D) Monitoring, Analysis, and Reporting.

1. All construction and operating permit holders shall submit reports at intervals established by the permit or at any other reasonable intervals required by the department. The monitoring and analytical schedule shall be as established by the department in the operating permit.

2. The analytical and sampling methods used must conform to the following reference methods unless alternates are approved by the department:

A. *Standard Methods for the Examination of Waters and Wastewaters* (14, 15, 16, 17, 18, 19, 20, and 21st Edition), published by the Water Environment Federation, 601 Wythe Street, Alexandria, VA 22314;

B. *Water Testing Standards, Vol. II.01 and II.02*, published by American Society for Testing and Materials, West Conshohocken, PA 19428;

C. *Methods for Chemical Analysis of Water and Wastes* (EPA-600/4-79-020), published by the Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, OH 54202; and

D. *NPDES Compliance Sampling Inspection Manual, [Report no. MCD-51] (EPA-305-X-04-001)*, published by Environmental Protection Agency, [Enforcement Division, Office of Water Enforcement, 401 Main Street SW, Washington, DC 20460] Office of Enforcement and Compliance Assurance 1200 Pennsylvania Avenue, N.W., Washington, DC 20460 (July 2004).

3. Sampling and analysis by the department to determine violations of this regulation will be conducted in accordance with the methods listed in paragraph (9)(A/D)2. of this rule or any other approved by the department. Violations may be also determined by review of the permittee's self-monitoring reports. Analysis conducted by the permittee or his/her laboratory shall be conducted in such a way that the precision and accuracy of the analyzed results can be determined.

4. If, for any reason, the permittee does not comply with or will be unable to comply with any discharge limitations or standards specified in the permit, the permittee shall provide the department with the following information, with the next discharge monitoring report as required under subsection (9)(A/D) of this rule:

A. A description of the discharge and cause of noncompliance;

B. The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and

C. The steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

5. In the case of any discharge subject to any applicable toxic pollutant effluent standard under /s/Section 307(a) of the federal Clean Water Act, the information required by paragraph (9)(A/D)4. of this rule regarding a violation of this standard shall be provided within twenty-four (24) hours from the time the owner or operator of the water contaminant source, point source, or wastewater treatment facility becomes aware of the violation or potential violation. **This information may be provided via an electronic web-based system developed by the department, provided it is available.** If this information is provided orally, a written submission covering these points shall be provided within five (5) working days of the time the owner or operator of the water contaminant source, point source, or wastewater treatment facility becomes aware of the violation.

#### 6. Bacteria Monitoring for Disinfection.

A. For systems that have a design capacity of greater than one hundred thousand (100,000) gpd, a minimum of one (1) sample shall be collected for *E. coli* analysis each calendar week during the recreational season from April 1 through October 31. Compliance with the *E. coli* water quality standard established in subsection (4)(C) of 10 CSR 20-7.031 shall be determined each

calendar month by calculating the geometric mean of all of the samples collected each calendar month. Compliance with the short-term *E. coli* limits established in subparagraph (9)(B)2.E. of this rule shall also be determined.

B. For systems that discharge to stream segments that are defined by paragraph (1)(A)3. as losing streams and have a design capacity of greater than one hundred thousand (100,000) gpd, a minimum of one (1) sample shall be collected for *E. coli* analysis each calendar week all year. Compliance with the *E. coli* water quality standard established in subsection (4)(C) of 10 CSR 20-7.031 and with the short term *E. coli* limits established in subparagraph (9)(B)2.E. of this rule shall also be determined.

C. For systems that have a design capacity of one hundred thousand (100,000) gpd or less, the sampling frequency for *E. coli* analysis shall be in accordance with the wastewater and sludge sampling program based on the design flow which is dependent upon the receiving water category as listed in subsection (1)(A) of this rule. Compliance with the *E. coli* water quality standard established in subsection (4)(C) of 10 CSR 20-7.031 shall be determined each calendar month by calculating the geometric mean of all of the samples collected each calendar month. Compliance with the short-term *E. coli* limits established in subparagraph (9)(B)2.E. of this rule shall also be determined.

7. Monitoring for Nutrients. Point sources that have the design capacity of greater than one hundred-thousand (100,000) gpd that typically discharge nitrogen and phosphorus shall collect and analyze a minimum of one (1) effluent sample each calendar quarter for one (1) permit cycle or up to (5) five years if the first permit term is less than five (5) years. The samples shall be analyzed for total nitrogen and total phosphorus using EPA-approved test methods. The quarterly monitoring frequency for total phosphorus does not apply to dischargers that are subject to the specific lake limits and monitoring requirement specified under subsections (3)(E) and (F) of this rule.

*((B))(E) Dilution Water.* Dilution of treated wastewater with cooling water or other less contaminated water to lower the effluent concentration to limits required by an effluent regulation of the Clean Water Law shall not be an acceptable means of treatment.

*((C) Compliance.*

1. *New sources.* Water contaminant sources, point sources, and wastewater treatment facilities and their tributary sewer systems on which construction begins after the effective date of the applicable effluent guidelines shall meet all requirements of this regulation and the Missouri Clean Water Law.

2. *Sources for which construction and operating permits were issued prior to the effective date of this regulation shall meet all the requirements of the existing permit. Where the existing permit contains more stringent limitations than those contained in this regulation, the permittee may apply to the department for a modification of the permit to contain the new limitations. The department will notify the applicant of its decision to modify or deny the application within sixty (60) days after receiving an application.*

*((D))(F) Compliance with New Source Performance Standards.*

1. Except as provided in paragraph (9)(D/F)2. of this rule, any new water contaminant source, point source, or wastewater treatment facility on which construction commenced after October 18, 1972, or any new source, which meets the applicable promulgated new source performance standards before the commencement of discharge, shall not be subject to any more stringent new source performance standards or to any more stringent technology-based standards under subsection 301(b)(2) of the federal Clean Water Act for the shortest of the following periods:

A. Ten (10) years from the date that construction is completed;

B. Ten (10) years from the date the source begins to discharge process or other nonconstruction related wastewater; or

C. The period of depreciation or amortization of the facility for the purposes of section 167 or 169 (or both) of the *Internal Revenue Code* of 1954.

2. The protection from more stringent standards of performance afforded by paragraph (9)(D/F)1. of this rule does not apply to—

A. Additional or more stringent permit conditions which are not technology based, for example, conditions based on water quality standards or effluent standards or prohibitions under */s/*Section 307(a) of the federal Clean Water Act; and

B. Additional permit conditions controlling pollutants listed as toxic under */s/*Section 307(a) of the federal Clean Water Act or as hazardous substances under */s/*Section 311 of the federal Clean Water Act and which are not controlled by new source performance standards. This exclusion includes permit conditions controlling pollutants other than those identified as hazardous where control of those other pollutants has been specifically identified as the method to control the hazardous pollutant.

*[[E]](G) Bypass[ing].*

*[1. Any bypass or shutdown of a wastewater treatment facility and tributary sewer system or any part of a facility and sewer system that results in a violation of permit limits or conditions is prohibited except—*

*A. Where unavoidable to prevent loss of life, personal injury, or property damages;*

*B. Where unavoidable excessive storm drainage or runoff would damage any facilities or processes necessary for compliance with the effluent limitations and conditions of this permit; and*

*C. Where maintenance is necessary to ensure efficient operation and alternative measures have been taken to maintain effluent quality during the period of maintenance;*

*2. The permittee shall notify the department by telephone within twenty-four (24) hours and follow with a written report within five (5) days of all bypasses or shutdowns that result in a violation of permit limits or conditions. POTWs that bypass during storm water infiltration events need only report on their discharge monitoring reports. This section does not excuse any person from any liability, unless this relief is otherwise provided by the statute.]*

1. **Bypass** means the intentional diversion of waste streams from any portion of a treatment facility. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. **Bypass not exceeding limitations.** The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (9)(G)3. and 4. of this rule.

3. **Notice.**

A. **Anticipated bypass.** If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the department, if possible at least ten (10) days before the date of the bypass.

B. **Unanticipated bypass.** The permittee shall notify the department by telephone within twenty-four (24) hours and follow with a written report within five (5) days from the time the permittee becomes aware of the circumstances of all bypasses or shutdowns that result in a violation of permit limits or conditions and which may endanger human health or the environment. The twenty-four (24) hour and five (5) day reports may be provided via an electronic web-based system developed by the department, provided it is available, or by facsimile machine. POTWs that bypass during storm water inflow and infiltration events need only report on their discharge monitoring reports.

**4. Prohibition of bypass.** Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:

**A.** Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

**B.** There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

**C.** The permittee submitted notices as required under paragraph (9)(G)3. of this rule.

**5.** The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three (3) conditions listed in paragraph (9)(G)4. of this rule.

*[(F)](H)* Sludge facilities shall meet the applicable control technology for sewage sludge treatment, use, and disposal as published by the EPA in 40 CFR 503 and applicable state standards and limitations published in 10 CSR 20 and 10 CSR 80. Where there are no standards available or applicable, or when more stringent standards are appropriate to protect human health and the environment, the department shall set specific limitations in permits on a case-by-case basis using best professional judgment.

*[(G)](I)* Industrial, agricultural, and other nondomestic water contaminant sources, point sources, or wastewater treatment facilities which are not included under subsection (2)(B), (3)(B), (4)(B), or (8)(B) of this rule—

1. These facilities shall meet the applicable control technology currently effective as published by the EPA in 40 CFR 405-471. Where there are no standards available or applicable, the department shall set specific parameter limitations using best professional judgment. pH shall be maintained in the range from six *[and one-half]* to nine *[(6.5-9.0)]* (6-9) standard units, except that discharges of uncontaminated cooling water and water treatment plant effluent may exceed nine (9) standard units, but may not exceed ten and one-half (10.5) standard units, if it can be demonstrated that the pH will not exceed nine (9) standard units beyond the regulatory mixing zone; and

2. Agrichemical facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agrichemical facility, the following procedures shall be conducted in an operational area: all transferring, loading, unloading, mixing, and repackaging of bulk agrichemicals. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner or treated to meet the applicable control technology referenced in paragraph (9)(G)1. of this rule.

*[(H)](J)* Implementation Schedule for Protection of Whole Body Contact and Secondary Contact Recreation.

*[1. For all existing wastewater discharges containing bacteria, the department shall, upon the issuance or first renewal or first significant modification of each permit, include within each permit a compliance schedule that provides up to five (5) years for the permittee to meet permit limits. Permitted facilities may present an evaluation sufficient to show that disinfection is not required to protect one (1) or both designated recreational uses. A use attainability analysis (UAA) may be conducted to demonstrate one (1) or both designated recreational uses are not attainable in the classified waters receiving the effluent.]*

*[2.]1. [Notwithstanding the provisions of paragraph (9)(H)1. of this rule, all] For discharges to water bodies designated for whole body contact and secondary contact recreational use prior to July 1, 2012, in 10 CSR 20-7.031, permits shall insure compliance with effluent limits to protect whole body contact and secondary contact recreation by no later than December 31, 2013, unless the permittee presents an evaluation sufficient to show that disinfection is not required to protect one (1) or both designated recreational uses, or a UAA demonstrates that one (1) or both designated recreational uses are not attainable in the classified waters receiving the effluent.*

**2.** For discharges to water bodies designated for whole body contact and secondary contact recreational use after June 30, 2012, in 10 CSR 20-7.031, permits shall include schedules of compliance to meet bacteria limits in accordance with subsection (9)(C) of this rule.

*[(I)](K)* Temporary Suspension of Accountability for Bacteria Standards during Wet Weather. The accountability for bacteria standards may be temporarily suspended for specific discharges when conditions contained in paragraphs (9)(J)1. through 3. of this rule are met.

1. No existing recreational uses downstream of the discharge will be impacted during the period of suspension as confirmed through a water quality review for reasonable potential for downstream impacts and a UAA performed in accordance with the *Missouri Recreational Use Attainability Analysis Protocol* approved by the Missouri Clean Water Commission.

2. The period of suspension must be restricted to the defined wet weather event that corresponds to the period when recreational uses are unattainable. The period must be determinable at any time by the discharger and the general public (such as from stream depth or flow readings or other stream conditions on which publicly accessible records are kept).

3. The suspension shall be subject to public review and comment, Missouri Clean Water Commission approval, and EPA approval before becoming effective and shall be contained as a condition in a discharge permit or other written document developed through public participation.

**(L) Whole Effluent Toxicity (WET) Test.** A WET test is a quantifiable method of determining the degree at which a discharge from a facility may be causing toxicity to aquatic life by itself, in combination with or through synergistic responses when mixed with the receiving water body. The following are permit requirements for acute and chronic WET tests.

1. WET tests are required under 10 CSR 20-6.010(8)(A)4. to be performed by individuals who are properly trained in conducting the test according to the methods prescribed in 40 CFR 136.3.

2. Test Types.

**A. Acute WET tests** shall be a multiple dilution series, static, non-renewal test to determine the degree at which acute forty-eight to ninety-six hour (48-96 hour) exposure to the effluent is acutely toxic to aquatic life expressed in species survival.

**B. Chronic WET test** shall be a multiple dilution series, static, renewal test to determine the degree at which chronic (sub lethal) exposure to the effluent is toxic to aquatic life or affects an alternative endpoint such as species reproduction and/or growth. Duration of chronic WET tests shall be established according to 40 CFR 136.3 Identification of test procedures, promulgated as of July 1, 2011, is hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

3. **Applicability.** WET test type and frequency shall be determined and expressed in permits by the department. At permit issuance or reissuance, the department will use valid and representative data to establish on a case-by-case basis, whether an existing discharge causes, has the reasonable potential to cause,

or contributes to an excursion from the narrative water quality criteria. Where the department concludes that a discharge has the reasonable potential to contribute to an excursion from the narrative water quality criteria, as established in 10 CSR 20-7.031 the permit will include WET limits. If the department determines the facility has no reasonable potential to violate water quality standards, WET testing may be removed, or if more information is required, WET testing may be retained at a reduced frequency. WET test applicability for NPDES permits shall be fully addressed in the permit factsheet.

#### 4. Specifications.

A. A dilution series shall be established in the permit for WET test. The dilution series shall be a set of proportional effluent dilutions based on an Allowable Effluent Concentration (AEC).

B. All WET tests shall be performed with *Pimephales promelas* (a fathead minnow) and *Ceriodaphnia dubia* (a water flea), except facilities which discharge to receiving streams designated as cold-water sport fisheries. Facilities which discharge to receiving streams designated as cold water sport fisheries may be required to perform WET tests using *Oncorhynchus mykiss* (rainbow trout) instead of the fathead minnow. Other test species for which test methods are provided in 40 CFR 136.3 may be approved by the department on a case-by-case basis provided the species are appropriately sensitive and representative. Alternative species (not included in 40 CFR 136.3) shall be approved in accordance with the procedures in 40 CFR 136.4. Application for alternate test procedures, promulgated as of July 1, 2011, is hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

C. A Toxic Unit (TU) water quality based limit shall be established in the permit for WET test where the department concludes that a discharge has the reasonable potential to cause or contribute to an excursion from the narrative water quality criteria as established in 10 CSR 20-7.031(3)(D). The TU limit shall be determined in accordance with 40 CFR 122.44(d)(1)(v) and utilizing the methods established in Technical Support Document For Water Quality-based Toxics Control (March 1991, EPA/505/2-90-001) and documented in the factsheet. Exceedance of a TU limit shall be a WET test failure.

D. Upon completion of a WET test the complete lab report and department form as referenced in the permit shall be submitted by the permittee to the department within the time-frame established by the permit.

*AUTHORITY: section 644.026, RSMo [2000] Supp. 2012. Original rule filed June 6, 1974, effective June 16, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed May 15, 2013.*

*PUBLIC COST: The proposed amendment total cost of compliance in the aggregate for Publicly-Owned Wastewater Treatment Facilities is \$1,688,100 through FY 2018. It is anticipated that the annual costs for whole effluent toxicity tests of FY 2018 of one hundred fifty-seven thousand dollars (\$157,000) will recur for the life of the rule and may vary with inflation. Nutrient monitoring costs will only be required for one (1) permit term, while nitrate monitoring costs will result in annual savings of fourteen thousand three hundred dollars (\$14,300) in FY 2018 and beyond, with reduced monitoring and on-going compliance.*

*PRIVATE COST: The proposed amendment total cost of compliance in the aggregate for Privately-Owned Wastewater Domestic and Industrial Treatment Facilities is one hundred two thousand six hundred dollars (\$102,600) through FY 2018. It is anticipated that the annual costs for whole effluent toxicity tests of FY 2018 of thirty-eight*

*thousand dollars (\$38,000) will recur for the life of the rule and may vary with inflation. Nutrient monitoring costs will only be required for one (1) permit term, while nitrate monitoring costs will result in annual savings of forty thousand three hundred dollars (\$40,300) in FY 2018 and beyond, with reduced monitoring and on-going compliance.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, John Rustige, PO Box 176, Jefferson City, MO 65102. Comments may be sent with name and address through email to john.rustige@dnr.mo.gov. Public comments must be received by September 18, 2013. The public hearing is scheduled at a meeting of the Clean Water Commission to be held at 9 AM, on September 11, 2013, at the Department of Natural Resources, Lewis and Clark State Office Building, LaCharrette/Nightingale Conference Rooms, 1101 Riverside Drive, Jefferson City, Missouri 65010.*