

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

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

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 18—Safety Standards

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.310 and 394.160, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-18.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1377-1381). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended October 3, 2013, and the commission held a public hearing on the proposed amendment on October 4, 2013. The commission received a timely written comment from the staff of the Missouri Public Service Commission. The commission's staff elaborated upon its comment at the hearing.

COMMENT: The commission's staff offered a written comment pointing out that the proposed amendment makes reference to an Errata issued on February 6, 2012 by the Institute of Electrical and Electronics Engineers, Inc. Subsequently, that Institute issued an updated Errata on April 29, 2013. Staff advises the commission to

modify the amendment to refer to the more recent April 29, 2013 Errata instead of the February 6, 2012 Errata.

RESPONSE AND EXPLANATION OF CHANGE: The commission has modified the amendment as proposed by staff.

4 CSR 240-18.010 Safety Standards for Electrical Corporations, Telecommunications Companies and Rural Electric Cooperatives

(1) The minimum safety standards relating to the operation of electrical corporations, telecommunications companies, and rural electric cooperatives are Parts 1, 2, and 3 and Sections 1, 2, and 9 of the *National Electrical Safety Code* (NESC); 2012 Edition as approved by the American National Standards Institute on August 1, 2011, as modified by Errata thereto issued on April 29, 2013, and published by the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997. The NESC is composed of four (4) different parts and four (4) sections, each of which pertain to different aspects of the electric and telecommunications industries. Part 1 specifies rules for the installation and maintenance of equipment normally found in electric generating plants and substations. Part 2 pertains to safety rules for overhead electric and communication lines. Part 3 contains safety rules for underground electric and communication lines. Section 1 is an introduction to the NESC, Section 2 defines special terms, and Section 9 requires certain grounding methods for electric and communications facilities. The full text of this material is available at the Energy Department of the Public Service Commission, Suite 700, 200 Madison, Jefferson City, Missouri. This rule does not incorporate any subsequent amendments or additions.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 50—Water Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.310 and 393.140, RSMo 2000, and section 386.266, RSMo Supp. 2013, the commission adopts a rule as follows:

4 CSR 240-50.050 Environmental Cost Adjustment Mechanism is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1477-1480). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended October 16, 2013, and the commission held a public hearing on the proposed rule on October 24, 2013. The commission received a timely written comment from Missouri American Water Company. The Office of the Public Counsel, Missouri American Water Company, and the commission's staff appeared at the hearing.

COMMENT #1: Missouri American Water Company's written comment indicates the company supports the rule as proposed by the commission. Frank L. Kartmann, President of Missouri American Water Company, appeared at the hearing and again offered Missouri American's support for the rule as proposed.

RESPONSE: The commission thanks Missouri American Water Company for its comment.

COMMENT #2: Public Counsel appeared at the hearing and indicated it has no comments either in support or in opposition to the proposed rule.

RESPONSE: The commission thanks Public Counsel for its comment.

COMMENT #3: The commission's staff appeared at the hearing and indicated its willingness to answer any questions about the proposed rule. Staff had no other comments either in support or in opposition to the proposed rule.

RESPONSE: The commission thanks its staff for its willingness to answer questions.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 26—Petroleum and Hazardous Substance
Storage Tanks
Chapter 2—Underground Storage Tanks—Technical
Regulations

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission (commission) under sections 319.109 and 319.137, RSMo Supp. 2013, the commission hereby amends a rule as follows:

10 CSR 26-2.062 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2013 (38 MoReg 1160–1161). Those sections with changes are reprinted here. Additionally, the incorporated by reference material has been changed as a result of comments. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on August 15, 2013, and the public comment period ended on August 22, 2013. The Missouri Department of Natural Resources' Hazardous Waste Program received thirty-three (33) comments regarding the guidance document proposed for incorporation by reference at subsection (3)(A) of the amended rule. The comments came from five (5) sources, as follows: Brian Porter, Terracon; Carol Eighmey, Petroleum Storage Tank Insurance Fund; Donnie Greenwalt, Wallis Companies; Mark Jordan, Wallis Companies; and Ron Leone, Missouri Petroleum Marketers and Convenience Store Association. The Hazardous Waste Program did not receive any comments regarding the rule language itself. However, department staff have determined that changes made to the January 1, 2013, version of the *Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks* guidance document as a result of comments received during the public comment period necessitate that the date of the guidance be changed in the rule in order to differentiate the final guidance from the January 1, 2013, version. The department proposes to revise subsection (3)(A) of 10 CSR 26-2.062 to reflect a guidance publication date of October 17, 2013.

COMMENT #1: Brian Porter stated the following: "One of the main reasons for revising the tanks Missouri Risk-Based Corrective Action (MRBCA) guidance was a desire to update its risk-based levels with the most current toxicological data and scientific methodology utilized by the Environmental Protection Agency (EPA) and other federal and state agencies. The result would be consistent target levels for Missouri's tanks and Brownfield Voluntary Cleanup Program (B/VCP) that are in line with the most current information used throughout the country.

The proposed updates to the tanks guidance include revisions to the target levels so that they are consistent with the departmental

[MRBCA] target levels currently in use. However, we understand that a forthcoming update to the departmental guidance will further update its target levels. If the updates to the tanks guidance occur as currently scheduled, Missouri's guidance documents will contain consistent target levels for only a very brief period (a matter of months at most). Thereafter, the guidance documents will conflict with each other once again.

Acknowledging that the tanks guidance process has been delayed several times already, it seems prudent to delay it one more time so that both it and the departmental guidance can benefit from the latest toxicological and scientific methodology."

RESPONSE: Mr. Porter's understanding regarding the department's updating of the Departmental Risk-Based Target Levels (RBTLs) is correct; the department has begun that effort and expects draft updated RBTLs to be developed by the end of 2013. Sometime thereafter, the draft RBTLs will be the subject of a sixty- (60-) day public comment period. Mr. Porter is also correct in his statement that the department's updating of the departmental RBTLs will result in those RBTLs differing from the RBTLs in the Tanks Risk-Based Corrective Action (RBCA) guidance.

The RBTLs in the updated Tanks RBCA guidance are based on methodology and toxicity and other inputs that were current in 2009. While the department is aware that the methodology and inputs have changed since that time, and despite the department's preference that the RBTLs in both RBCA documents be the same, the updated Tanks RBCA guidance associated with this rulemaking is the result of protracted negotiations between the department and tanks stakeholders during 2012 and early 2013. Those negotiations resulted in all parties agreeing to move ahead with the 2009 RBTLs. As the department's efforts to revise the departmental RBTLs have only recently begun, and we cannot ensure that the update will be completed on the anticipated schedule, the department will move ahead with the 2009 RBTLs (that are consistent with the current departmental RBTLs) that are found in the Tanks RBCA guidance associated with this rulemaking.

COMMENT #2: Carol Eighmey stated that much duplicative, inconsistent, or erroneous language in the previous version of the Tanks RBCA guidance has been eliminated or corrected with this update of the guidance, and that this alone makes this rulemaking a worthwhile endeavor.

RESPONSE: The department appreciates Ms. Eighmey's comment in support of this rulemaking.

COMMENT #3: Ms. Eighmey pointed out that the department's proposed rulemaking eliminates the requirement to use standardized forms in various reports, and that this is "a huge improvement." She stated that the requirement to use these standardized forms is now clearly obsolete and that some of the forms are no longer even accurate. Ms. Eighmey indicated that the PSTIF looks forward to the elimination of this requirement.

RESPONSE: The department appreciates Ms. Eighmey's comment in support of this change.

COMMENT #4: Ms. Eighmey stated "the proposed rulemaking *does* impose some new requirements and changes some of the numerical cleanup standards. We have reviewed the proposed changes and – while we're not fans of all of them, and some of them will increase costs – we nevertheless believe they are reasonable and can be implemented without *unduly* increasing costs."

RESPONSE: The department appreciates Ms. Eighmey's understanding and support of the new requirements.

COMMENT #5: Ms. Eighmey stated that what has been accomplished with this rulemaking and guidance update – "while it undoubtedly falls short of perfect – is a *significant and substantial* step forward, and one that is long overdue."

RESPONSE: The department agrees with Ms. Eighmey's comment

and appreciates her support of the rulemaking.

COMMENT #6: Ms. Eighmey stated that the first paragraph in Subsection 1.1 of the updated Tanks RBCA guidance accurately refers to the 2004 RBCA guidance document as “draft guidance.” She suggests that the first sentence in the second paragraph of the subsection be revised as follows: “In 2005, the process provided for by the **draft** guidance was modified...”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The first sentence of Subsection 1.1 has been changed to read: “In 2005, the process provided for by the draft guidance was modified by the addition of six (6) supplemental guidance documents.”

COMMENT #7: Ms. Eighmey stated that the second sentence in Subsection 2.1 of the updated guidance refers to Section 1.3 of the Guidance Document, which will no longer exist. She suggests deleting the phrase, “...as discussed at Section 1.3 of this document...”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The second sentence of Subsection 2.1 has been revised to read: “The MRBCA process begins when a petroleum release is suspected or discovered and includes all subsequent activities (except those conducted under 260.500 through 260.550 RSMo and the regulations promulgated thereunder) until MDNR issues a ‘No Further Action’ (NFA) letter for the release.”

COMMENT #8: Ms. Eighmey suggests renaming Subsection 2.2.1 of the updated guidance “**Release Discovery**” instead of “Site Discovery,” to be consistent with other language in the guidance.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. Subsection 2.2.1 of the updated guidance has been renamed “Release Discovery.”

In addition, the department has changed the first sentence of Subsection 2.2.1 of the updated guidance to refer to the discovery of a release at an underground storage tank (UST)/above ground storage tank (AST) site rather than the discovery of “contamination.” In addition, “site” also appeared in the second and third sentences of Subsection 2.2.1 as well as the first sentence of the second paragraph of the subsection. Where appropriate, the department has changed the use of “site” in the subsection to “release,” as follows:

“The MRBCA process begins with the discovery of a release at a UST/AST site. A release might be discovered and reported to the MDNR under a variety of circumstances including, but not limited to, (i) system closure, (ii) a site check investigation resulting in confirmation of a release, and (iii) identification of an imminent hazard (e.g., vapors in sewers or buildings, etc.). Releases might also be identified during investigations conducted as a part of real estate transactions, investigations conducted in anticipation of land development, and the occurrence of accidents and spills.

The release discovery process should generally result in the identification of affected media at a site and generate analytical data. This initial data should, ideally, represent the point or points of release, the chemicals of concern (COCs), and the maximum concentrations of the COCs.”

COMMENT #9: Ms. Eighmey suggests revising the fourth sentence of Subsection 2.4 of the updated guidance as follows, “Such communication must occur throughout the MRBCA process, from **release** discovery to issuance...,” to be consistent with other language in the guidance.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The fourth sentence of Subsection 2.4 has been revised to read: “Such communication must occur throughout the MRBCA process, from release discovery to issuance of a NFA letter, so that interested parties can determine if decisions made and activities undertaken during the MRBCA process at a site were sufficient to adequately protect human health and the environment.”

COMMENT #10: Ms. Eighmey suggests revising the first sentence of the second paragraph of Subsection 3.1 of the updated guidance as follows: “...may ultimately lead to *[site]* discovery of a **release**.”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The first sentence of the second paragraph of Subsection 3.1 has been revised to read: “A number of different events may trigger site-specific activities that may ultimately lead to release discovery.”

COMMENT #11: Ms. Eighmey stated that, since an explicit list of required photographs is being added to the guidance, the previous, less-precise sentence toward the end of Subsection 4.4.1 that says, “During the tank closure process, sufficient color photographs shall be collected to document the condition of tanks, excavation, pads, etc., and submitted with the closure report” should be deleted.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts the comment. The second-to-last sentence in Subsection 4.4.1 has been deleted from the updated guidance.

COMMENT #12: Ms. Eighmey suggests revising Subsection 4.5.8 of the updated guidance to more accurately describe current practices, as follows: “If treatment will be via on-site landfarming, **approval must be obtained from MDNR’s Tanks Section as part of the Corrective Action Plan (CAP) for the petroleum release. Off-site landfarms require a permit issued by MDNR’s Water Protection Program (WPP);** for information *[concerning landfarm permits,]* contact MDNR’s WPP at ...”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The second sentence of Subsection 4.5.8 has been revised to read: “If treatment will be via on-site landfarming, approval must be obtained from MDNR’s Tanks Section as part of the CAP for the petroleum release. Off-site landfarms require a permit issued by MDNR’s WPP; for information, contact MDNR’s WPP at (573) 751-1300.”

COMMENT #13: Ms. Eighmey suggests revising the last item in the third bulleted list of Subsection 5.1 to be consistent with change to terminology made throughout the document, as follows: “Information about corrective action measures *[or risk management activities]* that have been conducted and are planned.”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The last item in the third bulleted list has been revised to read: “Information about corrective action measures that have been conducted and are planned.”

COMMENT #14: Also in Subsection 5.1, Ms. Eighmey suggests revising the first sentence of the paragraph following the third bulleted list as follows: “...beyond that discussed herein might be required to develop a **Corrective Action Plan** or to complete a Tier 3...”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The first sentence in the paragraph following the third bulleted list in Subsection 5.1 has been revised to read: “Note: Additional data beyond that discussed herein might be required to develop a Corrective Action Plan (CAP) or to complete a Tier 3 risk assessment.”

COMMENT #15: Ms. Eighmey states that the first paragraph of Subsection 5.2 of the updated guidance appears to have been written in 2004 to help owners and their consultants understand how to transition to the new MRBCA Guidance. She indicates that the paragraph is largely obsolete today and – as a summary of the RBCA process – discusses in a general way the tasks that are more specifically presented throughout the document. Ms. Eighmey suggests deleting the entire paragraph.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment in part. The department believes some of the language in the first paragraph of Subsection 5.2 is valuable and therefore should be retained. The paragraph has been

revised to read as follows: “As part of the MRBCA evaluation, the person undertaking the evaluation must carefully review all existing data and identify any data gaps. Only after all the necessary data have been collected and full site characterization is complete should the person undertaking the evaluation proceed with the development of target levels.”

COMMENT #16: Ms. Eighmey points out that the second paragraph of Subsection 5.4.5 of the updated guidance references MEGA, a compilation of data that is now obsolete. She suggests revising the paragraph as follows: “Two (2) valuable sources of regional hydrogeology and aquifer characteristic information are the Well Information System, which contains all records of known wells in Missouri and is available at <http://dnr.mo.gov/mowells/publicLanding.do>, and “CARES” maps, available at <http://ims.missouri.edu/moims/step1.aoi/countylist.asp>.”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The second paragraph of Subsection 5.4.5 has been revised to read: “Two (2) valuable sources of regional hydrogeology and aquifer characteristic information are the Well Information System, which contains all records of known wells in Missouri and is available at <http://dnr.mo.gov/mowells/publicLanding.do>, and Center for Applied Research and Environmental Systems or “CARES” maps, available at <http://ims.missouri.edu/moims/step1.aoi/countylist.asp>.”

COMMENT #17: Ms. Eighmey states that the last paragraph of the text added to Subsection 5.6.4 as part of the guidance update advises the reader to “refer to Subsection 5.8 for developing a sampling plan for VWC.” She indicates that, though Subsection 5.8 contains helpful information for designing one’s sampling plan, it is not specific to volumetric water content (VWC). Ms. Eighmey suggests deleting the words “for VWC” from the text in Subsection 5.6.4.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The last paragraph of Subsection 5.6.4 has been revised to read: “Refer to Subsection 5.8 for developing a sampling plan. Because VWC varies over time most significantly in surficial soil, VWC data should not be collected from surficial soil (i.e., 0 – 3’) except when the foundation of an existing building is less than three feet (3’) deep.”

COMMENT #18: Ms. Eighmey states that Subsection 5.9.1 conflicts with information contained in Subsection 6.3.3 regarding point of demonstration (POD) and point of exposure (POE). She suggests that the subsection be revised accordingly.

RESPONSE: The department does not agree that the two (2) subsections are in conflict, because Subsection 5.9.1 pertains to delineation of contaminants in groundwater whereas Subsection 6.3.3 pertains to the evaluation of the groundwater use pathway. Therefore, no change is proposed.

COMMENT #19: Ms. Eighmey comments that the department accepts Method 3511 for total petroleum hydrocarbons-diesel range organics (TPH-DRO), as long as the lab meets the same detection limits and quality assurance/quality control (QA/QC) requirements as for other methods. She suggests that Method 3511 be added to Table 5-1 as an option for TPH-DRO.

RESPONSE: The department does not accept Ms. Eighmey’s comment. Method 3511 is a micro-extraction procedure; it is not an analysis procedure to quantify concentrations of COCs. The information in Table 5-1 includes analysis procedures. While the Tanks Section has approved the use of Method 3511, the guidance is not structured to include such extraction methods, but rather only analytical methods. Therefore, the department has not made the suggested addition.

COMMENT #20: Ms. Eighmey suggests that the following sentence be inserted into the updated guidance at the end of Subsection 6.1.2.1: “Because petroleum equipment companies are subject to

other regulatory requirements regarding worker exposure, it is not necessary to evaluate dermal contact risk associated with soil or groundwater exposures in the areas of the property where tanks/piping are located.”

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with the essence of Ms. Eighmey’s comment, but not all of the suggested language. The subject of the comment was also the subject of a July 3, 2013, memorandum from Aaron Schmidt of the department to which Ms. Eighmey referred in her oral comments to the Hazardous Waste Management Commission at the August 15, 2013, public hearing regarding the subject rule amendments and updated guidance. In that memorandum, the scope of the exception described in the memo and Ms. Eighmey’s comment is limited to the tank pit as defined in the memorandum. The department intends for the language to be added at the end of Subsection 6.1.2.1 to reflect the scope defined in the memorandum. Therefore, in response to this comment, the department has inserted the following language at the end of Subsection 6.1.2.1: “Because petroleum equipment companies are subject to other regulatory requirements regarding worker exposure, it is not necessary to evaluate the soil ingestion, inhalation, and dermal contact exposure pathway nor the dermal contact with groundwater exposure pathway for the construction worker receptor in the area in which an active underground storage tank (i.e., the tank pit) is located.”

COMMENT #21: Ms. Eighmey suggests inserting the following sentence at the end of Subsection 6.1.3.1: “At an active tank facility, the exposure model can assume no building will be constructed over the tank pit or where the dispensers are located.”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment in part. The subject of the comment was also the subject of a July 3, 2013, memorandum from Aaron Schmidt of the department to which Ms. Eighmey referred in her oral comments to the Hazardous Waste Management Commission at the August 15, 2013, public hearing regarding the subject rule amendments and updated guidance. With respect to the exposure model limitation, the memorandum states “When evaluating the indoor inhalation of vapors exposure pathways for soil and groundwater for a future residential or non-residential land use scenario, the tank pit need not be included in the evaluation. All areas outside of the tank pit shall be included in the evaluation.” The department has not incorporated Ms. Eighmey’s suggested language “where the dispensers are located” into the subsection because the memorandum applies only to the tank pit. The department intends for the language added at the end of Subsection 6.1.3.1 to be consistent with Mr. Schmidt’s memorandum. Therefore, the department has added the following language to the end of Subsection 6.1.3.1: “The exposure model for an active tank facility may assume that no building will be constructed over the tank pit.”

COMMENT #22: So that the text will match the terminology used in Table 7-4, Ms. Eighmey suggests that the third paragraph of Subsection 7.5 of the updated guidance be revised as follows: “Depending on this distance **and the depth** to groundwater...,”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The second sentence of the third paragraph of Subsection 7.5 has been revised to read: “Depending on this distance and the depth to groundwater, as discussed above, soil concentrations protective of groundwater will be selected from Tables 7-4(a), 7-4(b), or 7-4(c).”

COMMENT #23: Ms. Eighmey states that the text added (during updating of the guidance) just before Subsection 9.1 references “light non-aqueous phase liquid” and “LNAPL” in several places. She asks whether this paragraph should use the term “free product” instead of “light non-aqueous phase liquid” or “LNAPL.”

RESPONSE: The department feels the use of “LNAPL” rather than “free product” is appropriate in the paragraphs just before Subsection

9.1 because the analytical limitations that necessitate the requirements stated in the paragraphs pertain equally to both mobile (i.e., “free product”) and immobile LNAPL. In the experience of the department, analytical laboratories frequently refrain from analyzing grossly contaminated samples (i.e., samples with mobile and/or immobile LNAPL) because such samples can result in equipment being out of use for extended periods due to the need to thoroughly clean the equipment and due to the difficulty in accurately quantifying all chemicals of concern in such samples. The latter is due to the need to dilute such samples such that the detection limits for some of the COCs are elevated to a degree that the concentrations of the chemicals cannot be meaningfully quantified. Therefore, the department has not made any change to the paragraphs immediately preceding Subsection 9.1.

COMMENT #24: Ms. Eighmey states that the second bulleted list in Subsection 10.1 contains two (2) references to “LNAPL” in two (2) places. She suggests deleting the first reference and changing the second to “free product.”

RESPONSE AND EXPLANATION OF CHANGE: The department does not agree with Ms. Eighmey’s suggestions. The sentence preceding the second bulleted list in Subsection 10.1 reads: “The overall objective of a [Corrective Action Plan] is to ensure that:” The third bullet thereafter correctly explains the conditions related to LNAPL and free product that the Corrective Action Plan is to address or prevent. However, upon review, the department finds the language in the third bullet of the second bulleted list in Subsection 10.1 is unclear with regard to whether the conditions stated there pertain to LNAPL, free product, or both.

To ensure the requirements of Subsection 10.1 are clear, the department has revised the language of the third bullet in the second bulleted list in the subsection to read as follows: “Mobile or immobile light non-aqueous phase liquids (LNAPL; mobile LNAPL is referred to as “free product”) are not present in the soil or groundwater in volumes that will result in any of the following conditions: (i) an expanding free product plume in soil or groundwater, (ii) an expanding dissolved plume, (iii) unacceptable risk to human health or the environment, and (iv) explosive or fire hazard.”

These changes are based on the department’s contention that an expanding dissolved phase contaminant plume and unacceptable risk to human health or the environment could be caused by either LNAPL or free product. We contend that the same is arguably true with respect to the creation of an explosion or fire hazard as well. However, we acknowledge that only free product is subject to migration and therefore have replaced “LNAPL” at (i) with “free product.”

COMMENT #25: Ms. Eighmey comments that the numbering of the footnotes in Appendix C of the updated guidance may need to be corrected.

RESPONSE: The department thanks Ms. Eighmey for the comment and has ensured that the numbering of the footnotes is correct.

COMMENT #26: Mr. Greenwalt stated that, overall, he has no major concerns with what the new rules or Tanks RBCA guidance document contain and that he believes the department, the Petroleum Storage Tank Insurance Fund, and the Missouri Petroleum Marketers and Convenience Store Association put forth a great effort to collaborate and compromise on a streamlined document that will hopefully make the RBCA process less cumbersome and help facilitate site closures. Mr. Greenwalt further stated that, while this latest version of the RBCA guidance might not be perfect, it is clearly an improvement over the previous version of the guidance based on the consolidation and elimination of redundancy and useless requirements.

RESPONSE: The department appreciates Mr. Greenwalt’s support of this rulemaking effort.

COMMENT #27: Mr. Greenwalt stated that he has a few comments

on the requirements contained in Subsection 6.1.1.2 (Determination of Reasonably Anticipated Future Land Use (RAFU)) of the updated RBCA guidance and, more importantly, the administration of this particular section by the department’s project managers. He goes on to say that he is not strongly opposed to the addition of “interviews with property owners” to the list of factors in Subsection 6.1.1.2 that may be used to determine the RAFU of a property, but rather that he disagrees with the disproportionate amount of weight given to this factor by the department’s project managers.

RESPONSE: Most of the comments submitted by Mr. Greenwalt pertain to how the department implements those parts of the guidance pertaining to RAFU decisions – in particular how information from property owners is gathered and managed – rather than to the language of the amended rules or the updated guidance themselves. Rulemaking public comment periods, including the comment period for this rulemaking, provide the public with an opportunity to submit comments in support, comments in opposition, or comments suggesting edits to the specific proposed rules and any material to be incorporated by reference. Mr. Greenwalt’s comments pertaining to the department’s implementation of the guidance to be incorporated by reference are therefore outside of the scope of the rulemaking and the department has not responded to those in this order of rulemaking. In addition, in his comments, Mr. Greenwalt does not suggest any changes to the rules or the updated guidance document.

COMMENT #28: Mr. Greenwalt states that, although the updated Tanks RBCA guidance document has not been accepted by the Hazardous Waste Commission, some of the department’s project managers have, for some time, been requiring (not simply requesting) that information regarding future property use be obtained from current property owners.

RESPONSE: The statement “interviews with property owners” in Subsection 6.1.1.2 of the updated Tanks RBCA guidance is not new language; the same language appeared in Subsection 5.5.2 of the 2004 version of the Tanks RBCA guidance. Along with other information in Subsection 5.5.2 of the 2004 guidance, the statement “interviews with property owners” was moved to Subsection 6.1.1.2 of the updated guidance in order to consolidate in Section 6 information related to RAFU.

COMMENT #29: Mr. Jordan commended the department for its efforts to develop a broad consensus on complex and difficult topics.

RESPONSE: The department thanks Mr. Jordan for his comment.

COMMENT #30: Mr. Jordan stated that his sole comment pertains to Subsection 6.1.1.2 of the updated Tanks RBCA guidance. He suggested that “interviews with current property owners” be deleted from the subsection and replaced by “information obtained from current property owners by the consultant or the responsible party.”

RESPONSE: The department does not agree with Mr. Jordan’s suggestion because the suggested language would limit the department’s ability to obtain information from current property owners. The department believes it is both reasonable and appropriate for its project managers to gather information from property owners, whether in lieu of a consultant or responsible party or in order to verify information submitted by a consultant or responsible party. The department’s role of overseeing RBCA evaluations includes verifying information submitted by consultants by contacting or finding other, additional sources of information.

In addition, the statement “interviews with property owners” in Subsection 6.1.1.2 of the updated Tanks RBCA guidance is not new language; the same language appeared in Subsection 5.5.2 of the 2004 version of the Tanks RBCA guidance. Along with other information in Subsection 5.5.2 of the 2004 guidance, the statement “interviews with property owners” was moved to Subsection 6.1.1.2 of the updated guidance in order to consolidate in Section 6 information related to RAFU.

COMMENT #31: Mr. Leone stated that the Missouri Petroleum Marketers & Convenience Store Association (MPCA) “fully supports and incorporates herein by reference both the written comments being submitted by Mark Jordan & Donnie Greenwalt with Wallis Companies and the 8/15/13 public testimony presented by the Petroleum Storage Tank Insurance Fund (PSTIF).”

RESPONSE: The department’s responses to the comments submitted by Mr. Greenwalt, Mr. Jordan, and Ms. Eighmey are contained within this order of rulemaking.

COMMENT #32: Mr. Leone stated that “MPCA believes the proposed RBCA rule changes are for the most part necessary, reasonable [and] measured, and we ask that you seriously consider the comments and suggestions provided by both PSTIF and Wallis Companies.”

RESPONSE: The department thanks Mr. Leone for the comment. The department has given serious consideration to all of the comments submitted and has provided a response to each in this order of rulemaking.

COMMENT #33: Mr. Leone thanked department staff for their hard work to develop the amendments and update the Tanks RBCA guidance.

RESPONSE: The department thanks Mr. Leone for his comments recognizing the work of department staff in relation to this rulemaking.

10 CSR 26-2.062 Assessing the Site at Closure or Change in Service

(3) Owners and operators shall follow a written procedure.

(A) To comply with this rule, owners and operators may use the *Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks* guidance document, October 17, 2013, which is hereby incorporated by reference without any subsequent amendments or additions, and is published by the Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 26—Petroleum and Hazardous Substance Storage Tanks Chapter 2—Underground Storage Tanks—Technical Regulations

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission (commission) under sections 319.109 and 319.137, RSMo Supp. 2013, the commission hereby amends a rule as follows:

10 CSR 26-2.078 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2013 (38 MoReg 1161–1162). Those sections with changes are reprinted here. Additionally, the incorporated by reference material has been changed as a result of comments. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on August 15, 2013, and the public comment period ended on August 22, 2013. The Missouri Department of Natural Resources’ Hazardous Waste Program received thirty-three (33) comments regarding the guidance document proposed for incorporation by reference at paragraph (3)(C)1. of the amended rule. The comments came from five (5) sources, as follows: Brian Porter, Terracon; Carol

Eighmey, Petroleum Storage Tank Insurance Fund; Donnie Greenwalt, Wallis Companies; Mark Jordan, Wallis Companies; and Ron Leone, Missouri Petroleum Marketers and Convenience Store Association. The Hazardous Waste Program did not receive any comments regarding the rule language itself. However, department staff have determined that changes made to the January 1, 2013, version of the *Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks* guidance document as a result of comments received during the public comment period necessitate that the date of the guidance be changed in the rule in order to differentiate the final guidance from the January 1, 2013, version. The department proposes to revise paragraph (3)(C)1. of 10 CSR 26-2.078 to reflect a guidance publication date of October 17, 2013.

COMMENT #1: Brian Porter stated the following: “One of the main reasons for revising the tanks Missouri Risk-Based Corrective Action (MRBCA) guidance was a desire to update its risk-based levels with the most current toxicological data and scientific methodology utilized by the Environmental Protection Agency (EPA) and other federal and state agencies. The result would be consistent target levels for Missouri’s tanks and Brownfield Voluntary Cleanup Program (B/VCP) that are in line with the most current information used throughout the country.

The proposed updates to the tanks guidance include revisions to the target levels so that they are consistent with the departmental [MRBCA] target levels currently in use. However, we understand that a forthcoming update to the departmental guidance will further update its target levels. If the updates to the tanks guidance occur as currently scheduled, Missouri’s guidance documents will contain consistent target levels for only a very brief period (a matter of months at most). Thereafter, the guidance documents will conflict with each other once again.

Acknowledging that the tanks guidance process has been delayed several times already, it seems prudent to delay it one more time so that both it and the departmental guidance can benefit from the latest toxicological and scientific methodology.”

RESPONSE: Mr. Porter’s understanding regarding the department’s updating of the Departmental Risk-Based Target Levels (RBTLs) is correct; the department has begun that effort and expects draft updated RBTLs to be developed by the end of 2013. Sometime thereafter, the draft RBTLs will be the subject of a sixty- (60-) day public comment period. Mr. Porter is also correct in his statement that the department’s updating of the departmental RBTLs will result in those RBTLs differing from the RBTLs in the Tanks Risk-Based Corrective Action (RBCA) guidance.

The RBTLs in the updated Tanks RBCA guidance are based on methodology and toxicity and other inputs that were current in 2009. While the department is aware that the methodology and inputs have changed since that time, and despite the department’s preference that the RBTLs in both RBCA documents be the same, the updated Tanks RBCA guidance associated with this rulemaking is the result of protracted negotiations between the department and tanks stakeholders during 2012 and early 2013. Those negotiations resulted in all parties agreeing to move ahead with the 2009 RBTLs. As the department’s efforts to revise the departmental RBTLs have only recently begun, and we cannot ensure that the update will be completed on the anticipated schedule, the department will move ahead with the 2009 RBTLs (that are consistent with the current departmental RBTLs) that are found in the Tanks RBCA guidance associated with this rulemaking.

COMMENT #2: Carol Eighmey stated that much duplicative, inconsistent, or erroneous language in the previous version of the Tanks RBCA guidance has been eliminated or corrected with this update of the guidance, and that this alone makes this rulemaking a worthwhile endeavor.

RESPONSE: The department appreciates Ms. Eighmey’s comment in support of this rulemaking.

COMMENT #3: Ms. Eighmey pointed out that the department's proposed rulemaking eliminates the requirement to use standardized forms in various reports, and that this is "a huge improvement." She stated that the requirement to use these standardized forms is now clearly obsolete and that some of the forms are no longer even accurate. Ms. Eighmey indicated that the PSTIF looks forward to the elimination of this requirement.

RESPONSE: The department appreciates Ms. Eighmey's comment in support of this change.

COMMENT #4: Ms. Eighmey stated "the proposed rulemaking *does* impose some new requirements and changes some of the numerical cleanup standards. We have reviewed the proposed changes and – while we're not fans of all of them, and some of them will increase costs – we nevertheless believe they are reasonable and can be implemented without *unduly* increasing costs."

RESPONSE: The department appreciates Ms. Eighmey's understanding and support of the new requirements.

COMMENT #5: Ms. Eighmey stated that what has been accomplished with this rulemaking and guidance update – "while it undoubtedly falls short of perfect – is a *significant and substantial* step forward, and one that is long overdue."

RESPONSE: The department agrees with Ms. Eighmey's comment and appreciates her support of the rulemaking.

COMMENT #6: Ms. Eighmey stated that the first paragraph in Subsection 1.1 of the updated Tanks RBCA guidance accurately refers to the 2004 RBCA guidance document as "draft guidance." She suggests that the first sentence in the second paragraph of the subsection be revised as follows: "In 2005, the process provided for by the **draft** guidance was modified..."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The first sentence of Subsection 1.1 has been changed to read: "In 2005, the process provided for by the draft guidance was modified by the addition of six (6) supplemental guidance documents."

COMMENT #7: Ms. Eighmey stated that the second sentence in Subsection 2.1 of the updated guidance refers to Section 1.3 of the Guidance Document, which will no longer exist. She suggests deleting the phrase, "...as discussed at Section 1.3 of this document..."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The second sentence of Subsection 2.1 has been revised to read: "The MRBCA process begins when a petroleum release is suspected or discovered and includes all subsequent activities (except those conducted under 260.500 through 260.550 RSMo and the regulations promulgated thereunder) until MDNR issues a 'No Further Action' (NFA) letter for the release."

COMMENT #8: Ms. Eighmey suggests renaming Subsection 2.2.1 of the updated guidance "Release Discovery" instead of "Site Discovery," to be consistent with other language in the guidance.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. Subsection 2.2.1 of the updated guidance has been renamed "Release Discovery."

In addition, the department has changed the first sentence of Subsection 2.2.1 of the updated guidance to refer to the discovery of a release at an underground storage tank (UST)/above ground storage tank (AST) site rather than the discovery of "contamination." In addition, "site" also appeared in the second and third sentences of Subsection 2.2.1 as well as the first sentence of the second paragraph of the subsection. Where appropriate, the department has changed the use of "site" in the subsection to "release," as follows:

"The MRBCA process begins with the discovery of a release at a UST/AST site. A release might be discovered and reported to the MDNR under a variety of circumstances including, but not limited to, (i) system closure, (ii) a site check investigation resulting in con-

firmation of a release, and (iii) identification of an imminent hazard (e.g., vapors in sewers or buildings, etc.). Releases might also be identified during investigations conducted as a part of real estate transactions, investigations conducted in anticipation of land development, and the occurrence of accidents and spills.

The release discovery process should generally result in the identification of affected media at a site and generate analytical data. This initial data should, ideally, represent the point or points of release, the chemicals of concern (COCs), and the maximum concentrations of the COCs."

COMMENT #9: Ms. Eighmey suggests revising the fourth sentence of Subsection 2.4 of the updated guidance as follows, "Such communication must occur throughout the MRBCA process, from **release** discovery to issuance..." to be consistent with other language in the guidance.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The fourth sentence of Subsection 2.4 has been revised to read: "Such communication must occur throughout the MRBCA process, from release discovery to issuance of a NFA letter, so that interested parties can determine if decisions made and activities undertaken during the MRBCA process at a site were sufficient to adequately protect human health and the environment."

COMMENT #10: Ms. Eighmey suggests revising the first sentence of the second paragraph of Subsection 3.1 of the updated guidance as follows: "...may ultimately lead to *[site]* discovery of a **release**."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The first sentence of the second paragraph of Subsection 3.1 has been revised to read: "A number of different events may trigger site-specific activities that may ultimately lead to release discovery."

COMMENT #11: Ms. Eighmey stated that, since an explicit list of required photographs is being added to the guidance, the previous, less-precise sentence toward the end of Subsection 4.4.1 that says, "During the tank closure process, sufficient color photographs shall be collected to document the condition of tanks, excavation, pads, etc., and submitted with the closure report" should be deleted.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts the comment. The second-to-last sentence in Subsection 4.4.1 has been deleted from the updated guidance.

COMMENT #12: Ms. Eighmey suggests revising Subsection 4.5.8 of the updated guidance to more accurately describe current practices, as follows: "If treatment will be via on-site landfarming, **approval must be obtained from MDNR's Tanks Section as part of the Corrective Action Plan (CAP) for the petroleum release. Off-site landfarms require a permit issued by MDNR's Water Protection Program (WPP);** for information *[concerning landfarm permits,]* contact MDNR's WPP at ..."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The second sentence of Subsection 4.5.8 has been revised to read: "If treatment will be via on-site landfarming, approval must be obtained from MDNR's Tanks Section as part of the CAP for the petroleum release. Off-site landfarms require a permit issued by MDNR's WPP; for information, contact MDNR's WPP at (573) 751-1300."

COMMENT #13: Ms. Eighmey suggests revising the last item in the third bulleted list of Subsection 5.1 to be consistent with change to terminology made throughout the document, as follows: "Information about corrective action measures *[or risk management activities]* that have been conducted and are planned."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The last item in the third bulleted list has been revised to read: "Information about corrective action

measures that have been conducted and are planned.”

COMMENT #14: Also in Subsection 5.1, Ms. Eighmey suggests revising the first sentence of the paragraph following the third bulleted list as follows: “...beyond that discussed herein might be required to develop a **Corrective Action Plan** or to complete a Tier 3...”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The first sentence in the paragraph following the third bulleted list in Subsection 5.1 has been revised to read: “Note: Additional data beyond that discussed herein might be required to develop a Corrective Action Plan (CAP) or to complete a Tier 3 risk assessment.”

COMMENT #15: Ms. Eighmey states that the first paragraph of Subsection 5.2 of the updated guidance appears to have been written in 2004 to help owners and their consultants understand how to transition to the new MRBCA Guidance. She indicates that the paragraph is largely obsolete today and – as a summary of the RBCA process – discusses in a general way the tasks that are more specifically presented throughout the document. Ms. Eighmey suggests deleting the entire paragraph.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment in part. The department believes some of the language in the first paragraph of Subsection 5.2 is valuable and therefore should be retained. The paragraph has been revised to read as follows: “As part of the MRBCA evaluation, the person undertaking the evaluation must carefully review all existing data and identify any data gaps. Only after all the necessary data have been collected and full site characterization is complete should the person undertaking the evaluation proceed with the development of target levels.”

COMMENT #16: Ms. Eighmey points out that the second paragraph of Subsection 5.4.5 of the updated guidance references MEGA, a compilation of data that is now obsolete. She suggests revising the paragraph as follows: “Two (2) valuable sources of regional hydrogeology and aquifer characteristic information are the Well Information System, which contains all records of known wells in Missouri and is available at <http://dnr.mo.gov/mowells/publicLanding.do>, and “CARES” maps, available at <http://ims.missouri.edu/moims/step1.aoi/countylist.asp>.”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The second paragraph of Subsection 5.4.5 has been revised to read: “Two (2) valuable sources of regional hydrogeology and aquifer characteristic information are the Well Information System, which contains all records of known wells in Missouri and is available at <http://dnr.mo.gov/mowells/publicLanding.do>, and Center for Applied Research and Environmental Systems or “CARES” maps, available at <http://ims.missouri.edu/moims/step1.aoi/countylist.asp>.”

COMMENT #17: Ms. Eighmey states that the last paragraph of the text added to Subsection 5.6.4 as part of the guidance update advises the reader to “refer to Subsection 5.8 for developing a sampling plan for VWC.” She indicates that, though Subsection 5.8 contains helpful information for designing one’s sampling plan, it is not specific to volumetric water content (VWC). Ms. Eighmey suggests deleting the words “for VWC” from the text in Subsection 5.6.4.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The last paragraph of Subsection 5.6.4 has been revised to read: “Refer to Subsection 5.8 for developing a sampling plan. Because VWC varies over time most significantly in surficial soil, VWC data should not be collected from surficial soil (i.e., 0 – 3’) except when the foundation of an existing building is less than three feet (3’) deep.”

COMMENT #18: Ms. Eighmey states that Subsection 5.9.1 conflicts with information contained in Subsection 6.3.3 regarding point of

demonstration (POD) and point of exposure (POE). She suggests that the subsection be revised accordingly.

RESPONSE: The department does not agree that the two (2) subsections are in conflict, because Subsection 5.9.1 pertains to delimitation of contaminants in groundwater whereas Subsection 6.3.3 pertains to the evaluation of the groundwater use pathway. Therefore, no change is proposed.

COMMENT #19: Ms. Eighmey comments that the department accepts Method 3511 for total petroleum hydrocarbons-diesel range organics (TPH-DRO), as long as the lab meets the same detection limits and quality assurance/quality control (QA/QC) requirements as for other methods. She suggests that Method 3511 be added to Table 5-1 as an option for TPH-DRO.

RESPONSE: The department does not accept Ms. Eighmey’s comment. Method 3511 is a micro-extraction procedure; it is not an analysis procedure to quantify concentrations of COCs. The information in Table 5-1 includes analysis procedures. While the Tanks Section has approved the use of Method 3511, the guidance is not structured to include such extraction methods, but rather only analytical methods. Therefore, the department has not made the suggested addition.

COMMENT #20: Ms. Eighmey suggests that the following sentence be inserted into the updated guidance at the end of Subsection 6.1.2.1: “Because petroleum equipment companies are subject to other regulatory requirements regarding worker exposure, it is not necessary to evaluate dermal contact risk associated with soil or groundwater exposures in the areas of the property where tanks/piping are located.”

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with the essence of Ms. Eighmey’s comment, but not all of the suggested language. The subject of the comment was also the subject of a July 3, 2013, memorandum from Aaron Schmidt of the department to which Ms. Eighmey referred in her oral comments to the Hazardous Waste Management Commission at the August 15, 2013, public hearing regarding the subject rule amendments and updated guidance. In that memorandum, the scope of the exception described in the memo and Ms. Eighmey’s comment is limited to the tank pit as defined in the memorandum. The department intends for the language to be added at the end of Subsection 6.1.2.1 to reflect the scope defined in the memorandum. Therefore, in response to this comment, the department has inserted the following language at the end of Subsection 6.1.2.1: “Because petroleum equipment companies are subject to other regulatory requirements regarding worker exposure, it is not necessary to evaluate the soil ingestion, inhalation, and dermal contact exposure pathway nor the dermal contact with groundwater exposure pathway for the construction worker receptor in the area in which an active underground storage tank (i.e., the tank pit) is located.”

COMMENT #21: Ms. Eighmey suggests inserting the following sentence at the end of Subsection 6.1.3.1: “At an active tank facility, the exposure model can assume no building will be constructed over the tank pit or where the dispensers are located.”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment in part. The subject of the comment was also the subject of a July 3, 2013, memorandum from Aaron Schmidt of the department to which Ms. Eighmey referred in her oral comments to the Hazardous Waste Management Commission at the August 15, 2013, public hearing regarding the subject rule amendments and updated guidance. With respect to the exposure model limitation, the memorandum states “When evaluating the indoor inhalation of vapors exposure pathways for soil and groundwater for a future residential or non-residential land use scenario, the tank pit need not be included in the evaluation. All areas outside of the tank pit shall be included in the evaluation.” The department has not incorporated Ms. Eighmey’s suggested language “where the dispensers are located”

into the subsection because the memorandum applies only to the tank pit. The department intends for the language added at the end of Subsection 6.1.3.1 to be consistent with Mr. Schmidt's memorandum. Therefore, the department has added the following language to the end of Subsection 6.1.3.1: "The exposure model for an active tank facility may assume that no building will be constructed over the tank pit."

COMMENT #22: So that the text will match the terminology used in Table 7-4, Ms. Eighmey suggests that the third paragraph of Subsection 7.5 of the updated guidance be revised as follows: "Depending on this distance **and the depth** to groundwater..."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The second sentence of the third paragraph of Subsection 7.5 has been revised to read: "Depending on this distance and the depth to groundwater, as discussed above, soil concentrations protective of groundwater will be selected from Tables 7-4(a), 7-4(b), or 7-4(c)."

COMMENT #23: Ms. Eighmey states that the text added (during updating of the guidance) just before Subsection 9.1 references "light non-aqueous phase liquid" and "LNAPL" in several places. She asks whether this paragraph should use the term "free product" instead of "light non-aqueous phase liquid" or "LNAPL."

RESPONSE: The department feels the use of "LNAPL" rather than "free product" is appropriate in the paragraphs just before Subsection 9.1 because the analytical limitations that necessitate the requirements stated in the paragraphs pertain equally to both mobile (i.e., "free product") and immobile LNAPL. In the experience of the department, analytical laboratories frequently refrain from analyzing grossly contaminated samples (i.e., samples with mobile and/or immobile LNAPL) because such samples can result in equipment being out of use for extended periods due to the need to thoroughly clean the equipment and due to the difficulty in accurately quantifying all chemicals of concern in such samples. The latter is due to the need to dilute such samples such that the detection limits for some of the COCs are elevated to a degree that the concentrations of the chemicals cannot be meaningfully quantified. Therefore, the department has not made any change to the paragraphs immediately preceding Subsection 9.1.

COMMENT #24: Ms. Eighmey states that the second bulleted list in Subsection 10.1 contains two (2) references to "LNAPL" in two (2) places. She suggests deleting the first reference and changing the second to "free product."

RESPONSE AND EXPLANATION OF CHANGE: The department does not agree with Ms. Eighmey's suggestions. The sentence preceding the second bulleted list in Subsection 10.1 reads: "The overall objective of a [Corrective Action Plan] is to ensure that:" The third bullet thereafter correctly explains the conditions related to LNAPL and free product that the Corrective Action Plan is to address or prevent. However, upon review, the department finds the language in the third bullet of the second bulleted list in Subsection 10.1 is unclear with regard to whether the conditions stated there pertain to LNAPL, free product, or both.

To ensure the requirements of Subsection 10.1 are clear, the department has revised the language of the third bullet in the second bulleted list in the subsection to read as follows: "Mobile or immobile light non-aqueous phase liquids (LNAPL; mobile LNAPL is referred to as "free product") are not present in the soil or groundwater in volumes that will result in any of the following conditions: (i) an expanding free product plume in soil or groundwater, (ii) an expanding dissolved plume, (iii) unacceptable risk to human health or the environment, and (iv) explosive or fire hazard."

These changes are based on the Department's contention that an expanding dissolved phase contaminant plume and unacceptable risk to human health or the environment could be caused by either LNAPL or free product. We contend that the same is arguably true

with respect to the creation of an explosion or fire hazard as well. However, we acknowledge that only free product is subject to migration and therefore have replaced "LNAPL" at (i) with "free product."

COMMENT #25: Ms. Eighmey comments that the numbering of the footnotes in Appendix C of the updated guidance may need to be corrected.

RESPONSE: The department thanks Ms. Eighmey for the comment and has ensured that the numbering of the footnotes is correct.

COMMENT #26: Mr. Greenwalt stated that, overall, he has no major concerns with what the new rules or Tanks RBCA guidance document contain and that he believes the department, the Petroleum Storage Tank Insurance Fund, and the Missouri Petroleum Marketers and Convenience Store Association put forth a great effort to collaborate and compromise on a streamlined document that will hopefully make the RBCA process less cumbersome and help facilitate site closures. Mr. Greenwalt further stated that, while this latest version of the RBCA guidance might not be perfect, it is clearly an improvement over the previous version of the guidance based on the consolidation and elimination of redundancy and useless requirements.

RESPONSE: The department appreciates Mr. Greenwalt's support of this rulemaking effort.

COMMENT #27: Mr. Greenwalt stated that he has a few comments on the requirements contained in Subsection 6.1.1.2 (Determination of Reasonably Anticipated Future Land Use (RAFU)) of the updated RBCA guidance and, more importantly, the administration of this particular section by the department's project managers. He goes on to say that he is not strongly opposed to the addition of "interviews with property owners" to the list of factors in Subsection 6.1.1.2 that may be used to determine the RAFU of a property, but rather that he disagrees with the disproportionate amount of weight given to this factor by the department's project managers.

RESPONSE: Most of the comments submitted by Mr. Greenwalt pertain to how the department implements those parts of the guidance pertaining to RAFU decisions – in particular how information from property owners is gathered and managed – rather than to the language of the amended rules or the updated guidance themselves. Rulemaking public comment periods, including the comment period for this rulemaking, provide the public with an opportunity to submit comments in support, comments in opposition, or comments suggesting edits to the specific proposed rules and any material to be incorporated by reference. Mr. Greenwalt's comments pertaining to the department's implementation of the guidance to be incorporated by reference are therefore outside of the scope of the rulemaking and the department has not responded to those in this order of rulemaking. In addition, in his comments, Mr. Greenwalt does not suggest any changes to the rules or the updated guidance document.

COMMENT #28: Mr. Greenwalt states that, although the updated Tanks RBCA guidance document has not been accepted by the Hazardous Waste Commission, some of the department's project managers have, for some time, been requiring (not simply requesting) that information regarding future property use be obtained from current property owners.

RESPONSE: The statement "interviews with property owners" in Subsection 6.1.1.2 of the updated Tanks RBCA guidance is not new language; the same language appeared in Subsection 5.5.2 of the 2004 version of the Tanks RBCA guidance. Along with other information in Subsection 5.5.2 of the 2004 guidance, the statement "interviews with property owners" was moved to Subsection 6.1.1.2 of the updated guidance in order to consolidate in Section 6 information related to RAFU.

COMMENT #29: Mr. Jordan commended the department for its efforts to develop a broad consensus on complex and difficult topics.

RESPONSE: The department thanks Mr. Jordan for his comment.

COMMENT #30: Mr. Jordan stated that his sole comment pertains to Subsection 6.1.1.2 of the updated Tanks RBCA guidance. He suggested that “interviews with current property owners” be deleted from the subsection and replaced by “information obtained from current property owners by the consultant or the responsible party.”

RESPONSE: The department does not agree with Mr. Jordan’s suggestion because the suggested language would limit the department’s ability to obtain information from current property owners. The department believes it is both reasonable and appropriate for its project managers to gather information from property owners, whether in lieu of a consultant or responsible party or in order to verify information submitted by a consultant or responsible party. The department’s role of overseeing RBCA evaluations includes verifying information submitted by consultants by contacting or finding other, additional sources of information.

In addition, the statement “interviews with property owners” in Subsection 6.1.1.2 of the updated Tanks RBCA guidance is not new language; the same language appeared in Subsection 5.5.2 of the 2004 version of the Tanks RBCA guidance. Along with other information in Subsection 5.5.2 of the 2004 guidance, the statement “interviews with property owners” was moved to Subsection 6.1.1.2 of the updated guidance in order to consolidate in Section 6 information related to RAFU.

COMMENT #31: Mr. Leone stated that the Missouri Petroleum Marketers & Convenience Store Association (MPCA) “fully supports and incorporates herein by reference both the written comments being submitted by Mark Jordan & Donnie Greenwalt with Wallis Companies and the 8/15/13 public testimony presented by the Petroleum Storage Tank Insurance Fund (PSTIF).”

RESPONSE: The department’s responses to the comments submitted by Mr. Greenwalt, Mr. Jordan, and Ms. Eighmey are contained within this order of rulemaking.

COMMENT #32: Mr. Leone stated that “MPCA believes the proposed RBCA rule changes are for the most part necessary, reasonable [and] measured, and we ask that you seriously consider the comments and suggestions provided by both PSTIF and Wallis Companies.”

RESPONSE: The department thanks Mr. Leone for the comment. The department has given serious consideration to all of the comments submitted and has provided a response to each in this order of rulemaking.

COMMENT #33: Mr. Leone thanked department staff for their hard work to develop the amendments and update the Tanks RBCA guidance.

RESPONSE: The department thanks Mr. Leone for his comments recognizing the work of department staff in relation to this rulemaking.

10 CSR 26-2.078 Investigations for Soil and Groundwater Cleanup

(3) Owners and operators shall follow a written procedure.

(C) Written Procedures.

1. *Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks* guidance document, October 17, 2013, which is hereby incorporated by reference without any subsequent amendments or additions, and is published by the Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176.

2. *Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks*, February 2004, as amended March 8, 2005, by *Notice of Modifications to the Process and Interim Guidance Pertaining to Application of the New Soil Type Dependent Tier 1 Risk-Based Target Levels*; the March 18, 2005, *Soil Type*

Determination Guidelines; the March 3, 2005, Table 3-1 Default Target Levels; the April 2005 Table 4-1 Soil Concentration Levels to Determine the Need for Groundwater Evaluation During Tank Closure; the February 2005 Tables 7-1(a) through 7-12(c) Tier 1 Risk-Based Target Levels; and the April 21, 2005, *Soil Gas Sampling Protocol*, which are hereby incorporated by reference without any subsequent amendments or additions, and are published by the Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 26—Petroleum and Hazardous Substance Storage Tanks Chapter 2—Underground Storage Tanks—Technical Regulations

ORDER OF RULEMAKING

By the authority vested in the Hazardous Waste Management Commission (commission) under sections 319.109 and 319.137, RSMo Supp. 2013, the commission hereby amends a rule as follows:

10 CSR 26-2.082 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2013 (38 MoReg 1162–1163). Those sections with changes are reprinted here. Additionally, the incorporated by reference material has been changed as a result of comments. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on August 15, 2013, and the public comment period ended on August 22, 2013. The Missouri Department of Natural Resources’ Hazardous Waste Program received thirty-three (33) comments regarding the guidance document proposed for incorporation by reference at paragraph (5)(C)1. of the amended rule. The comments came from five (5) sources, as follows: Brian Porter, Terracon; Carol Eighmey, Petroleum Storage Tank Insurance Fund; Donnie Greenwalt, Wallis Companies; Mark Jordan, Wallis Companies; and Ron Leone, Missouri Petroleum Marketers and Convenience Store Association. The Hazardous Waste Program did not receive any comments regarding the rule language itself. However, department staff have determined that changes made to the January 1, 2013, version of the *Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks* guidance document as a result of comments received during the public comment period necessitate that the date of the guidance be changed in the rule in order to differentiate the final guidance from the January 1, 2013, version. The department proposes to revise paragraph (5)(C)1. of 10 CSR 26-2.082 to reflect a guidance publication date of October 17, 2013.

COMMENT #1: Brian Porter stated the following: “One of the main reasons for revising the tanks Missouri Risk-Based Corrective Action (MRBCA) guidance was a desire to update its risk-based levels with the most current toxicological data and scientific methodology utilized by the Environmental Protection Agency (EPA) and other federal and state agencies. The result would be consistent target levels for Missouri’s tanks and Brownfield Voluntary Cleanup Program (B/VCP) that are in line with the most current information used throughout the country.

The proposed updates to the tanks guidance include revisions to the target levels so that they are consistent with the departmental [MRBCA] target levels currently in use. However, we understand that a forthcoming update to the departmental guidance will further update its target levels. If the updates to the tanks guidance occur as

currently scheduled, Missouri's guidance documents will contain consistent target levels for only a very brief period (a matter of months at most). Thereafter, the guidance documents will conflict with each other once again.

Acknowledging that the tanks guidance process has been delayed several times already, it seems prudent to delay it one more time so that both it and the departmental guidance can benefit from the latest toxicological and scientific methodology."

RESPONSE: Mr. Porter's understanding regarding the department's updating of the Departmental Risk-Based Target Levels (RBTLs) is correct; the department has begun that effort and expects draft updated RBTLs to be developed by the end of 2013. Sometime thereafter, the draft RBTLs will be the subject of a sixty- (60-) day public comment period. Mr. Porter is also correct in his statement that the department's updating of the departmental RBTLs will result in those RBTLs differing from the RBTLs in the Tanks Risk-Based Corrective Action (RBCA) guidance.

The RBTLs in the updated Tanks RBCA guidance are based on methodology and toxicity and other inputs that were current in 2009. While the department is aware that the methodology and inputs have changed since that time, and despite the department's preference that the RBTLs in both RBCA documents be the same, the updated Tanks RBCA guidance associated with this rulemaking is the result of protracted negotiations between the department and tanks stakeholders during 2012 and early 2013. Those negotiations resulted in all parties agreeing to move ahead with the 2009 RBTLs. As the department's efforts to revise the departmental RBTLs have only recently begun, and we cannot ensure that the update will be completed on the anticipated schedule, the department will move ahead with the 2009 RBTLs (that are consistent with the current departmental RBTLs) that are found in the Tanks RBCA guidance associated with this rulemaking.

COMMENT #2: Carol Eighmey stated that much duplicative, inconsistent, or erroneous language in the previous version of the Tanks RBCA guidance has been eliminated or corrected with this update of the guidance, and that this alone makes this rulemaking a worthwhile endeavor.

RESPONSE: The department appreciates Ms. Eighmey's comment in support of this rulemaking.

COMMENT #3: Ms. Eighmey pointed out that the department's proposed rulemaking eliminates the requirement to use standardized forms in various reports, and that this is "a huge improvement." She stated that the requirement to use these standardized forms is now clearly obsolete and that some of the forms are no longer even accurate. Ms. Eighmey indicated that the PSTIF looks forward to the elimination of this requirement.

RESPONSE: The department appreciates Ms. Eighmey's comment in support of this change.

COMMENT #4: Ms. Eighmey stated "the proposed rulemaking *does* impose some new requirements and changes some of the numerical cleanup standards. We have reviewed the proposed changes and - while we're not fans of all of them, and some of them will increase costs - we nevertheless believe they are reasonable and can be implemented without *unduly* increasing costs."

RESPONSE: The department appreciates Ms. Eighmey's understanding and support of the new requirements.

COMMENT #5: Ms. Eighmey stated that what has been accomplished with this rulemaking and guidance update - "while it undoubtedly falls short of perfect - is a *significant and substantial* step forward, and one that is long overdue."

RESPONSE: The department agrees with Ms. Eighmey's comment and appreciates her support of the rulemaking.

COMMENT #6: Ms. Eighmey stated that the first paragraph in

Subsection 1.1 of the updated Tanks RBCA guidance accurately refers to the 2004 RBCA guidance document as "draft guidance." She suggests that the first sentence in the second paragraph of the subsection be revised as follows: "In 2005, the process provided for by the **draft** guidance was modified..."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The first sentence of Subsection 1.1 has been changed to read: "In 2005, the process provided for by the draft guidance was modified by the addition of six (6) supplemental guidance documents."

COMMENT #7: Ms. Eighmey stated that the second sentence in Subsection 2.1 of the updated guidance refers to Section 1.3 of the Guidance Document, which will no longer exist. She suggests deleting the phrase, "...as discussed at Section 1.3 of this document..."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The second sentence of Subsection 2.1 has been revised to read: "The MRBCA process begins when a petroleum release is suspected or discovered and includes all subsequent activities (except those conducted under 260.500 through 260.550 RSMo and the regulations promulgated thereunder) until MDNR issues a 'No Further Action' (NFA) letter for the release."

COMMENT #8: Ms. Eighmey suggests renaming Subsection 2.2.1 of the updated guidance "**Release** Discovery" instead of "Site Discovery," to be consistent with other language in the guidance.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. Subsection 2.2.1 of the updated guidance has been renamed "Release Discovery."

In addition, the department has changed the first sentence of Subsection 2.2.1 of the updated guidance to refer to the discovery of a release at an underground storage tank (UST)/above ground storage tank (AST) site rather than the discovery of "contamination." In addition, "site" also appeared in the second and third sentences of Subsection 2.2.1 as well as the first sentence of the second paragraph of the subsection. Where appropriate, the department has changed the use of "site" in the subsection to "release," as follows:

"The MRBCA process begins with the discovery of a release at a UST/AST site. A release might be discovered and reported to the MDNR under a variety of circumstances including, but not limited to, (i) system closure, (ii) a site check investigation resulting in confirmation of a release, and (iii) identification of an imminent hazard (e.g., vapors in sewers or buildings, etc.). Releases might also be identified during investigations conducted as a part of real estate transactions, investigations conducted in anticipation of land development, and the occurrence of accidents and spills.

The release discovery process should generally result in the identification of affected media at a site and generate analytical data. This initial data should, ideally, represent the point or points of release, the chemicals of concern (COCs), and the maximum concentrations of the COCs."

COMMENT #9: Ms. Eighmey suggests revising the fourth sentence of Subsection 2.4 of the updated guidance as follows, "Such communication must occur throughout the MRBCA process, from **release** discovery to issuance...", to be consistent with other language in the guidance.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The fourth sentence of Subsection 2.4 has been revised to read: "Such communication must occur throughout the MRBCA process, from release discovery to issuance of a NFA letter, so that interested parties can determine if decisions made and activities undertaken during the MRBCA process at a site were sufficient to adequately protect human health and the environment."

COMMENT #10: Ms. Eighmey suggests revising the first sentence of the second paragraph of Subsection 3.1 of the updated guidance as

follows: "...may ultimately lead to *[site]* discovery of a release."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The first sentence of the second paragraph of Subsection 3.1 has been revised to read: "A number of different events may trigger site-specific activities that may ultimately lead to release discovery."

COMMENT #11: Ms. Eighmey stated that, since an explicit list of required photographs is being added to the guidance, the previous, less-precise sentence toward the end of Subsection 4.4.1 that says, "During the tank closure process, sufficient color photographs shall be collected to document the condition of tanks, excavation, pads, etc., and submitted with the closure report" should be deleted.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts the comment. The second-to-last sentence in Subsection 4.4.1 has been deleted from the updated guidance.

COMMENT #12: Ms. Eighmey suggests revising Subsection 4.5.8 of the updated guidance to more accurately describe current practices, as follows: "If treatment will be via on-site landfarming, **approval must be obtained from MDNR's Tanks Section as part of the Corrective Action Plan (CAP) for the petroleum release. Off-site landfarms require a permit issued by MDNR's Water Protection Program (WPP);** for information *[concerning land-farm permits,]* contact MDNR's WPP at ..."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The second sentence of Subsection 4.5.8 has been revised to read: "If treatment will be via on-site landfarming, approval must be obtained from MDNR's Tanks Section as part of the CAP for the petroleum release. Off-site landfarms require a permit issued by MDNR's WPP; for information, contact MDNR's WPP at (573) 751-1300."

COMMENT #13: Ms. Eighmey suggests revising the last item in the third bulleted list of Subsection 5.1 to be consistent with change to terminology made throughout the document, as follows: "Information about corrective action measures *[for risk management activities]* that have been conducted and are planned."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The last item in the third bulleted list has been revised to read: "Information about corrective action measures that have been conducted and are planned."

COMMENT #14: Also in Subsection 5.1, Ms. Eighmey suggests revising the first sentence of the paragraph following the third bulleted list as follows: "...beyond that discussed herein might be required to develop a **Corrective Action Plan** or to complete a Tier 3..."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The first sentence in the paragraph following the third bulleted list in Subsection 5.1 has been revised to read: "Note: Additional data beyond that discussed herein might be required to develop a Corrective Action Plan (CAP) or to complete a Tier 3 risk assessment."

COMMENT #15: Ms. Eighmey states that the first paragraph of Subsection 5.2 of the updated guidance appears to have been written in 2004 to help owners and their consultants understand how to transition to the new MRBCA Guidance. She indicates that the paragraph is largely obsolete today and – as a summary of the RBCA process – discusses in a general way the tasks that are more specifically presented throughout the document. Ms. Eighmey suggests deleting the entire paragraph.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment in part. The department believes some of the language in the first paragraph of Subsection 5.2 is valuable and therefore should be retained. The paragraph has been revised to read as follows: "As part of the MRBCA evaluation, the

person undertaking the evaluation must carefully review all existing data and identify any data gaps. Only after all the necessary data have been collected and full site characterization is complete should the person undertaking the evaluation proceed with the development of target levels."

COMMENT #16: Ms. Eighmey points out that the second paragraph of Subsection 5.4.5 of the updated guidance references MEGA, a compilation of data that is now obsolete. She suggests revising the paragraph as follows: "Two (2) valuable sources of regional hydrogeology and aquifer characteristic information are the Well Information System, which contains all records of known wells in Missouri and is available at <http://dnr.mo.gov/mowells/publicLanding.do>, and "CARES" maps, available at <http://ims.missouri.edu/moims/step1.aoi/countylist.asp>."

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The second paragraph of Subsection 5.4.5 has been revised to read: "Two (2) valuable sources of regional hydrogeology and aquifer characteristic information are the Well Information System, which contains all records of known wells in Missouri and is available at <http://dnr.mo.gov/mowells/publicLanding.do>, and Center for Applied Research and Environmental Systems or "CARES" maps, available at <http://ims.missouri.edu/moims/step1.aoi/countylist.asp>."

COMMENT #17: Ms. Eighmey states that the last paragraph of the text added to Subsection 5.6.4 as part of the guidance update advises the reader to "refer to Subsection 5.8 for developing a sampling plan for VWC." She indicates that, though Subsection 5.8 contains helpful information for designing one's sampling plan, it is not specific to volumetric water content (VWC). Ms. Eighmey suggests deleting the words "for VWC" from the text in Subsection 5.6.4.

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey's comment. The last paragraph of Subsection 5.6.4 has been revised to read: "Refer to Subsection 5.8 for developing a sampling plan. Because VWC varies over time most significantly in surficial soil, VWC data should not be collected from surficial soil (i.e., 0 – 3') except when the foundation of an existing building is less than three feet (3') deep."

COMMENT #18: Ms. Eighmey states that Subsection 5.9.1 conflicts with information contained in Subsection 6.3.3 regarding point of demonstration (POD) and point of exposure (POE). She suggests that the subsection be revised accordingly.

RESPONSE: The department does not agree that the two (2) subsections are in conflict, because Subsection 5.9.1 pertains to delineation of contaminants in groundwater whereas Subsection 6.3.3 pertains to the evaluation of the groundwater use pathway. Therefore, no change is proposed.

COMMENT #19: Ms. Eighmey comments that the department accepts Method 3511 for total petroleum hydrocarbons-diesel range organics (TPH-DRO), as long as the lab meets the same detection limits and quality assurance/quality control (QA/QC) requirements as for other methods. She suggests that Method 3511 be added to Table 5-1 as an option for TPH-DRO.

RESPONSE: The department does not accept Ms. Eighmey's comment. Method 3511 is a micro-extraction procedure; it is not an analysis procedure to quantify concentrations of COCs. The information in Table 5-1 includes analysis procedures. While the Tanks Section has approved the use of Method 3511, the guidance is not structured to include such extraction methods, but rather only analytical methods. Therefore, the department has not made the suggested addition.

COMMENT #20: Ms. Eighmey suggests that the following sentence be inserted into the updated guidance at the end of Subsection 6.1.2.1: "Because petroleum equipment companies are subject to other regulatory requirements regarding worker exposure, it is not

necessary to evaluate dermal contact risk associated with soil or groundwater exposures in the areas of the property where tanks/piping are located.”

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with the essence of Ms. Eighmey’s comment, but not all of the suggested language. The subject of the comment was also the subject of a July 3, 2013, memorandum from Aaron Schmidt of the department to which Ms. Eighmey referred in her oral comments to the Hazardous Waste Management Commission at the August 15, 2013, public hearing regarding the subject rule amendments and updated guidance. In that memorandum, the scope of the exception described in the memo and Ms. Eighmey’s comment is limited to the tank pit as defined in the memorandum. The department intends for the language to be added at the end of Subsection 6.1.2.1 to reflect the scope defined in the memorandum. Therefore, in response to this comment, the department has inserted the following language at the end of Subsection 6.1.2.1: “Because petroleum equipment companies are subject to other regulatory requirements regarding worker exposure, it is not necessary to evaluate the soil ingestion, inhalation, and dermal contact exposure pathway nor the dermal contact with groundwater exposure pathway for the construction worker receptor in the area in which an active underground storage tank (i.e., the tank pit) is located.”

COMMENT #21: Ms. Eighmey suggests inserting the following sentence at the end of Subsection 6.1.3.1: “At an active tank facility, the exposure model can assume no building will be constructed over the tank pit or where the dispensers are located.”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment in part. The subject of the comment was also the subject of a July 3, 2013, memorandum from Aaron Schmidt of the department to which Ms. Eighmey referred in her oral comments to the Hazardous Waste Management Commission at the August 15, 2013, public hearing regarding the subject rule amendments and updated guidance. With respect to the exposure model limitation, the memorandum states “When evaluating the indoor inhalation of vapors exposure pathways for soil and groundwater for a future residential or non-residential land use scenario, the tank pit need not be included in the evaluation. All areas outside of the tank pit shall be included in the evaluation.” The department has not incorporated Ms. Eighmey’s suggested language “where the dispensers are located” into the subsection because the memorandum applies only to the tank pit. The department intends for the language added at the end of Subsection 6.1.3.1 to be consistent with Mr. Schmidt’s memorandum. Therefore, the department has added the following language to the end of Subsection 6.1.3.1: “The exposure model for an active tank facility may assume that no building will be constructed over the tank pit.”

COMMENT #22: So that the text will match the terminology used in Table 7-4, Ms. Eighmey suggests that the third paragraph of Subsection 7.5 of the updated guidance be revised as follows: “Depending on this distance **and the depth** to groundwater...”

RESPONSE AND EXPLANATION OF CHANGE: The department accepts Ms. Eighmey’s comment. The second sentence of the third paragraph of Subsection 7.5 has been revised to read: “Depending on this distance and the depth to groundwater, as discussed above, soil concentrations protective of groundwater will be selected from Tables 7-4(a), 7-4(b), or 7-4(c).”

COMMENT #23: Ms. Eighmey states that the text added (during updating of the guidance) just before Subsection 9.1 references “light non-aqueous phase liquid” and “LNAPL” in several places. She asks whether this paragraph should use the term “free product” instead of “light non-aqueous phase liquid” or “LNAPL.”

RESPONSE: The department feels the use of “LNAPL” rather than “free product” is appropriate in the paragraphs just before Subsection 9.1 because the analytical limitations that necessitate the require-

ments stated in the paragraphs pertain equally to both mobile (i.e., “free product”) and immobile LNAPL. In the experience of the department, analytical laboratories frequently refrain from analyzing grossly contaminated samples (i.e., samples with mobile and/or immobile LNAPL) because such samples can result in equipment being out of use for extended periods due to the need to thoroughly clean the equipment and due to the difficulty in accurately quantifying all chemicals of concern in such samples. The latter is due to the need to dilute such samples such that the detection limits for some of the COCs are elevated to a degree that the concentrations of the chemicals cannot be meaningfully quantified. Therefore, the Department has not made any change to the paragraphs immediately preceding Subsection 9.1.

COMMENT #24: Ms. Eighmey states that the second bulleted list in Subsection 10.1 contains two (2) references to “LNAPL” in two (2) places. She suggests deleting the first reference and changing the second to “free product.”

RESPONSE AND EXPLANATION OF CHANGE: The department does not agree with Ms. Eighmey’s suggestions. The sentence preceding the second bulleted list in Subsection 10.1 reads: “The overall objective of a [Corrective Action Plan] is to ensure that:” The third bullet thereafter correctly explains the conditions related to LNAPL and free product that the Corrective Action Plan is to address or prevent. However, upon review, the department finds the language in the third bullet of the second bulleted list in Subsection 10.1 is unclear with regard to whether the conditions stated there pertain to LNAPL, free product, or both.

To ensure the requirements of Subsection 10.1 are clear, the department has revised the language of the third bullet in the second bulleted list in the subsection to read as follows: “Mobile or immobile light non-aqueous phase liquids (LNAPL; mobile LNAPL is referred to as “free product”) are not present in the soil or groundwater in volumes that will result in any of the following conditions: (i) an expanding free product plume in soil or groundwater, (ii) an expanding dissolved plume, (iii) unacceptable risk to human health or the environment, and (iv) explosive or fire hazard.”

These changes are based on the department’s contention that an expanding dissolved phase contaminant plume and unacceptable risk to human health or the environment could be caused by either LNAPL or free product. We contend that the same is arguably true with respect to the creation of an explosion or fire hazard as well. However, we acknowledge that only free product is subject to migration and therefore have replaced “LNAPL” at (i) with “free product.”

COMMENT #25: Ms. Eighmey comments that the numbering of the footnotes in Appendix C of the updated guidance may need to be corrected.

RESPONSE: The department thanks Ms. Eighmey for the comment and has ensured that the numbering of the footnotes is correct.

COMMENT #26: Mr. Greenwalt stated that, overall, he has no major concerns with what the new rules or Tanks RBCA guidance document contain and that he believes the department, the Petroleum Storage Tank Insurance Fund, and the Missouri Petroleum Marketers and Convenience Store Association put forth a great effort to collaborate and compromise on a streamlined document that will hopefully make the RBCA process less cumbersome and help facilitate site closures. Mr. Greenwalt further stated that, while this latest version of the RBCA guidance might not be perfect, it is clearly an improvement over the previous version of the guidance based on the consolidation and elimination of redundancy and useless requirements.

RESPONSE: The department appreciates Mr. Greenwalt’s support of this rulemaking effort.

COMMENT #27: Mr. Greenwalt stated that he has a few comments on the requirements contained in Subsection 6.1.1.2 (Determination

of Reasonably Anticipated Future Land Use (RAFU)) of the updated RBCA guidance and, more importantly, the administration of this particular section by the department's project managers. He goes on to say that he is not strongly opposed to the addition of "interviews with property owners" to the list of factors in Subsection 6.1.1.2 that may be used to determine the RAFU of a property, but rather that he disagrees with the disproportionate amount of weight given to this factor by the department's project managers.

RESPONSE: Most of the comments submitted by Mr. Greenwalt pertain to how the Department implements those parts of the guidance pertaining to RAFU decisions – in particular how information from property owners is gathered and managed – rather than to the language of the amended rules or the updated guidance themselves. Rulemaking public comment periods, including the comment period for this rulemaking, provide the public with an opportunity to submit comments in support, comments in opposition, or comments suggesting edits to the specific proposed rules and any material to be incorporated by reference. Mr. Greenwalt's comments pertaining to the department's implementation of the guidance to be incorporated by reference are therefore outside of the scope of the rulemaking and the department has not responded to those in this order of rulemaking. In addition, in his comments, Mr. Greenwalt does not suggest any changes to the rules or the updated guidance document.

COMMENT #28: Mr. Greenwalt states that, although the updated Tanks RBCA guidance document has not been accepted by the Hazardous Waste Commission, some of the department's project managers have, for some time, been requiring (not simply requesting) that information regarding future property use be obtained from current property owners.

RESPONSE: The statement "interviews with property owners" in Subsection 6.1.1.2 of the updated Tanks RBCA guidance is not new language; the same language appeared in Subsection 5.5.2 of the 2004 version of the Tanks RBCA guidance. Along with other information in Subsection 5.5.2 of the 2004 guidance, the statement "interviews with property owners" was moved to Subsection 6.1.1.2 of the updated guidance in order to consolidate in Section 6 information related to RAFU.

COMMENT #29: Mr. Jordan commended the department for its efforts to develop a broad consensus on complex and difficult topics. RESPONSE: The department thanks Mr. Jordan for his comment.

COMMENT #30: Mr. Jordan stated that his sole comment pertains to Subsection 6.1.1.2 of the updated Tanks RBCA guidance. He suggested that "interviews with current property owners" be deleted from the subsection and replaced by "information obtained from current property owners by the consultant or the responsible party." RESPONSE: The department does not agree with Mr. Jordan's suggestion because the suggested language would limit the department's ability to obtain information from current property owners. The department believes it is both reasonable and appropriate for its project managers to gather information from property owners, whether in lieu of a consultant or responsible party or in order to verify information submitted by a consultant or responsible party. The department's role of overseeing RBCA evaluations includes verifying information submitted by consultants by contacting or finding other, additional sources of information.

In addition, the statement "interviews with property owners" in Subsection 6.1.1.2 of the updated Tanks RBCA guidance is not new language; the same language appeared in Subsection 5.5.2 of the 2004 version of the Tanks RBCA guidance. Along with other information in Subsection 5.5.2 of the 2004 guidance, the statement "interviews with property owners" was moved to Subsection 6.1.1.2 of the updated guidance in order to consolidate in Section 6 information related to RAFU.

COMMENT #31: Mr. Leone stated that the Missouri Petroleum

Marketers & Convenience Store Association (MPCA) "fully supports and incorporates herein by reference both the written comments being submitted by Mark Jordan & Donnie Greenwalt with Wallis Companies and the 8/15/13 public testimony presented by the Petroleum Storage Tank Insurance Fund (PSTIF)."

RESPONSE: The department's responses to the comments submitted by Mr. Greenwalt, Mr. Jordan, and Ms. Eighmey are contained within this order of rulemaking.

COMMENT #32: Mr. Leone stated that "MPCA believes the proposed RBCA rule changes are for the most part necessary, reasonable [and] measured, and we ask that you seriously consider the comments and suggestions provided by both PSTIF and Wallis Companies."

RESPONSE: The department thanks Mr. Leone for the comment. The department has given serious consideration to all of the comments submitted and has provided a response to each in this order of rulemaking.

COMMENT #33: Mr. Leone thanked department staff for their hard work to develop the amendments and update the Tanks RBCA guidance.

RESPONSE: The department thanks Mr. Leone for his comments recognizing the work of department staff in relation to this rulemaking.

10 CSR 26-2.082 Corrective Action Plan

(5) Owners and operators shall follow a written procedure.

(C) Written Procedures.

1. *Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks* guidance document, October 17, 2013, which is hereby incorporated by reference without any subsequent amendments or additions, and is published by the Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176.

2. *Missouri Risk-Based Corrective Action Process for Petroleum Storage Tanks*, February 2004, as amended March 8, 2005, by *Notice of Modifications to the Process and Interim Guidance Pertaining to Application of the New Soil Type Dependent Tier 1 Risk-Based Target Levels*; the March 18, 2005, *Soil Type Determination Guidelines*; the March 3, 2005, Table 3-1 Default Target Levels; the April 2005 Table 4-1 Soil Concentration Levels to Determine the Need for Groundwater Evaluation During Tank Closure; the February 2005 Tables 7-1(a) through 7-12(c) Tier 1 Risk-Based Target Levels; and the April 21, 2005, *Soil Gas Sampling Protocol*, which are hereby incorporated by reference without any subsequent amendments or additions, and are published by the Department of Natural Resources, PO Box 176, Jefferson City, MO 65102-0176.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 30—Office of the Director Chapter 14—Approval of Accrediting Organizations for Crime Laboratories

ORDER OF RULEMAKING

By the authority vested in the Department of Public Safety under sections 650.060 and 650.100, RSMo Supp. 2013, the department adopts a rule as follows:

11 CSR 30-14.010 Approval of Accrediting Organizations for Crime Laboratories is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2013

(38 MoReg 1486). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 30—Office of the Director
Chapter 15—Format for Concealed Carry Permits**

ORDER OF RULEMAKING

By the authority vested in the Department of Public Safety under section 571.101.8, RSMo Supp. 2013, the department adopts a rule as follows:

11 CSR 30-15.010 Format for Concealed Carry Permits **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1391–1393). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 17—School Protection Officers**

ORDER OF RULEMAKING

By the authority vested in the Department of Public Safety under section 590.190, RSMo Supp. 2013, the director adopts a rule as follows:

11 CSR 75-17.010 Minimum Training Standards for School Protection Officer Training Centers **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2013 (38 MoReg 1549). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 17—School Protection Officers**

ORDER OF RULEMAKING

By the authority vested in the Department of Public Safety under section 590.190, RSMo Supp. 2013, the director adopts a rule as follows:

11 CSR 75-17.020 Minimum Training Standards for School Protection Officer Training Instructors **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2013 (38 MoReg 1549). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 17—School Protection Officers**

ORDER OF RULEMAKING

By the authority vested in the Department of Public Safety under section 590.190, RSMo Supp. 2013, the director adopts a rule as follows:

11 CSR 75-17.030 Minimum Training Standards for School Protection Officers **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2013 (38 MoReg 1549–1550). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 17—School Protection Officers**

ORDER OF RULEMAKING

By the authority vested in the Department of Public Safety under section 590.190, RSMo Supp. 2013, the director adopts a rule as follows:

11 CSR 75-17.040 Minimum Continuing Education Training Standards for School Protection Officers **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2013 (38 MoReg 1550). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

ORDER OF RULEMAKING

By the authority vested in the acting director of revenue under section 301.130, RSMo Supp. 2013, the acting director adopts a rule as follows:

12 CSR 10-23.500 Optional Second Plate for Commercial Motor Vehicles **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2013 (38 MoReg 1550-1552). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services under section 207.020, RSMo 2000, and section 208.991, RSMo Supp. 2013, the department amends a rule as follows:

13 CSR 40-2.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1393-1394). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Social Services received two (2) comments.

COMMENT #1: The department received a comment which indicated that FSD has no legal authority to exceed federal mandated timeframes for administrative, technological, or other reason, and those exemptions should be removed from the rule.

RESPONSE AND EXPLANATION OF CHANGE: Those exceptions were removed from the rule.

COMMENT #2: The department received a comment which stated that current state policy requires the application to be processed within thirty (30) days for non-disability based Medicaid and that standard should be maintained and included in the regulation.

RESPONSE: Regulation 13 CSR 40-2.010 applies to all applications received by the division. Timelines for the processing of MO HealthNet applications are contained in section 208.072, RSMo.

13 CSR 40-2.010 General Application Procedures

(2) Applications must be approved or denied in accordance with the timeframes established by federal and state law except when—

(A) The application is incomplete or is missing information that is necessary to complete an eligibility determination; or

(B) The division cannot reach a decision because the applicant or an examining physician delays or fails to provide the information necessary to make an eligibility determination.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 7—Family Healthcare

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services under section 207.020, RSMo 2000, and section 208.991, RSMo Supp.

2013, the department adopts a rule as follows:

13 CSR 40-7.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1394-1395). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Social Services received one (1) comment.

COMMENT: The comment received indicated that the definition was lacking for non-custodial parent in that it looked to court orders if they existed, but did not take into account where parents agree to change custody of the children, but it is never formalized by modifying the court order.

RESPONSE AND EXPLANATION OF CHANGE: Language was added to the regulation in order to make it clear that court orders only control when the custody of the child is questioned. When parents agree as to which parent has physical custody of the child and there is no evidence to indicate that the person claiming to be the custodian is incorrect, the court orders will not control.

13 CSR 40-7.010 Scope and Definitions

(1) For purposes of this chapter, the following definitions shall apply:

(G) “Non-custodial parent” means the parent who does not have physical custody of the child.

1. If physical custody is questioned, a court order, judgment, decree, or any legally enforceable separation, divorce, or custody agreement establishing which party has physical custody shall control who is the custodial parent;

2. If there is no such order or agreement, or the order or agreement is silent, or in the event of joint custody, the custodial parent is the parent with whom the child expects to spend more than fifty percent (50%) of his or her overnight visits in the year for which eligibility is being determined; or

3. In the case of true joint physical custody where the child spends an equal amount of overnight visits with both parents, the non-custodial parent is the parent who does not claim the child as part of their tax household.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 7—Family Healthcare

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services under section 207.020, RSMo 2000, and section 208.991, RSMo Supp. 2013, the department adopts a rule as follows:

13 CSR 40-7.015 Application Procedure for Family MO HealthNet Programs and the Children’s Health Insurance Program (CHIP) **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1395-1396). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Social Services received no comments.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 7—Family Healthcare**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services under section 207.020, RSMo 2000, and section 208.991, RSMo Supp. 2013, the department adopts a rule as follows:

13 CSR 40-7.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1396). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Social Services received one (1) comment.

COMMENT: The comment received indicated that the rule should make clear that a married couple who files joint taxes together should always be included in the same household, whether they live together or not.

RESPONSE AND EXPLANATION OF CHANGE: The rule has been revised to make this clear.

13 CSR 40-7.020 Household Composition

(1) A household shall include the taxpayer, or in the case of a joint return, taxpayers, and all tax dependents.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 7—Family Healthcare**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services under section 207.020, RSMo 2000, and section 208.991, RSMo Supp. 2013, the department adopts a rule as follows:

**13 CSR 40-7.030 Calculation of Modified Adjusted Gross
Income (MAGI) is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1396-1397). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Social Services received two (2) comments on this proposed rule.

COMMENT #1: A comment was received stating that the Modified Adjusted Gross Income methodology needed to include the five percent (5%) income disregard, which is required by federal law.

RESPONSE: This regulation details the process for calculating a participant's Modified Adjusted Gross Income, not determining the level that participant would be deemed eligible. Because the five percent (5%) disregard is applied to income levels in the determination of eligibility, and is not utilized in the calculation of a participant's Modified Adjusted Gross Income, the five percent (5%) disregard is not included in this rule.

COMMENT #2: A comment was received that indicated that the division should include specific examples of evidence that applicants can show to anticipate their future income and that the section needed to clarify that increases or decreases in family size and income can be verified by self-attestation.

RESPONSE: The rule is written in order to take into account individual participant's situations. The division believes that by listing specific examples it could be overlooking situations that could arise. The rule does not require anything specific from a participant as to verification of the anticipated changes. The division believes that the rule as drafted allows for the individual participant's situation to be taken into account.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 7—Family Healthcare**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services under section 207.020, RSMo 2000, and section 208.991, RSMo Supp. 2013, the department adopts a rule as follows:

13 CSR 40-7.040 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1397). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Social Services received one (1) comment.

COMMENT: A comment was received stating that the regulation is far too restrictive and places too much of the burden of documentation on the participant while ignoring the obligations of the state agency. It also states that ten (10) days is not sufficient time for information to be provided and contradicts the purposes of the Affordable Care Act which is to maintain coverage rather than terminate coverage for failure to meet burdensome paperwork requirements. It was suggested that the division use the ninety (90) days to be consistent with the exchange, but at a minimum should use sixty (60) days.

The comment goes on to say that rather than the agency setting strict timeframes that authorize the termination of coverage, the regulation should incorporate the federal provisions contained in 42 CFR 435.952.

RESPONSE AND EXPLANATION OF CHANGE: The division is bound by section 208.072, RSMo, as to applications for MO HealthNet that require an application be processed within thirty (30) days. Allowing ninety (90) days to respond to a request for documentation would force the division to be outside of the statutory times. The division did amend the rule to allow a participant to request additional time if needed when they are making a reasonable attempt to obtain the information, but is not able to obtain the information within the ten- (10-) day time period.

This regulation does incorporate the federal provisions contained in 42 CFR 435.952. Specifically, the request for documentation only is indicated if verification cannot be obtained through the electronic data hub or if the information is not reasonably compatible. Termination is only allowed under this regulation when additional information has been sought and a right to a hearing has been given.

13 CSR 40-7.040 Verification Procedures

(2) If verification cannot be obtained by the division through the electronic data hub, or if the information is not reasonably compatible

with other information provided, the division shall ask for any additional information from or on behalf of the participant needed in order to verify the information.

(A) The participant shall provide the required verification within ten (10) days from the date that the division requests the information in writing.

(B) A participant may request additional time to provide the information. The additional time shall be granted if the participant is making a reasonable effort to obtain the information.

(C) If a participant fails to provide the requested verification within ten (10) days from the date of the written request or fails to obtain additional time to provide the information, the division shall issue an adverse action notice to the participant notifying them that their coverage is denied or their coverage shall terminate ten (10) days from the date of the adverse action notice.

(D) The participant shall be given the right to request a hearing on the issue pursuant to section 208.080, RSMo. Failure on the part of the participant to request a hearing shall result in termination of coverage upon expiration of the adverse action notice.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 15—Initiative, Referendum, New Party and Independent Candidate Petition Rules

ORDER OF RULEMAKING

By the authority vested in the Secretary of State under section 115.335.7, RSMo 2000, and section 116.130.5, RSMo Supp. 2013, the secretary adopts a rule as follows:

15 CSR 30-15.030 Initiative, Referendum, New Party and Independent Candidate Petitions Missouri Voter Registration System Option is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2013 (38 MoReg 1486–1487). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

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

**NOTIFICATION OF REVIEW:
APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled January 21, 2014. These applications are available for public inspection at the address shown below:

Date Filed

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

12/10/13

#5000 HT: Mercy Hospital Springfield
Springfield (Greene County)
\$1,940,479, Replace MRI unit

#5005 RT: Chapel Ridge Living Center
Mineral Point (Washington County)
\$730,500, Replace 34-bed ALF

#5010 NT: Bethesda Dilworth
St. Louis (St. Louis County)
\$2,928,000, Renovate/Modernize 400-bed SNF

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by January 9, 2014. All written requests and comments should be sent to—

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

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

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

IN ADDITION

Pursuant to section 226.096, RSMo, regarding the Construction Claims Binding Arbitration Cap for the Missouri Department of Transportation, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new limit.

Using Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 226.096, RSMo, the

Construction Claims Binding Arbitration Cap for the Missouri Department of Transportation effective January 1, 2014, was established by the following calculation:

Index Based on 2009 Dollars	
Third Quarter 2012 IPD Index	106.191
Third Quarter 2013 IPD Index	107.390

New 2014 Limit = 2013 Limit × (2013 Index/2012 Index)

$$411,400 = 406,807 \times (107.390/106.191)$$

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

IN ADDITION

Pursuant to section 537.610, RSMo, regarding the Sovereign Immunity Limits for Missouri Public Entities, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new limit on awards for liability.

Using Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 537.610, RSMo, the two (2) new Sovereign Immunity Limits effective January 1, 2014, were established by the following calculations:

Index Based on 2009 Dollars	
Third Quarter 2012 IPD Index	106.191
Third Quarter 2013 IPD Index	107.390

New 2014 Limit = 2013 Limit × (2013 Index/2012 Index)

For all claims arising out of a single accident or occurrence:
 $2,687,594 = 2,657,587 \times (107.390/106.191)$

For any one (1) person in a single accident or occurrence:
 $403,139 = 398,638 \times (107.390/106.191)$

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

IN ADDITION

Pursuant to section 105.711, RSMo, regarding the State Legal Expense Fund, the Director of Insurance, Financial Institutions and Professional Registration is required to calculate the new limit.

Using Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 105.711, RSMo, the State Legal Expense Fund Limit effective January 1, 2014, was established by the following calculation:

Index Based on 2009 Dollars	
Third Quarter 2012 IPD Index	106.191
Third Quarter 2013 IPD Index	107.390

New 2014 Limit = 2013 Limit × (2013 Index/2012 Index)


$$420,840 = 416,141 \times (107.390/106.191)$$

ADDITION TO STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is an addition to the list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works (1) to David E. Mollohan, (2) to any other contractor or subcontractor that is owned, operated or controlled by Mr. David E Mollohan including M & D Excavating or (3) to any other simulation of Mr. David E Mollohan or of M & D Excavating for a period of one year, or until January 10, 2014.

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
David E. Mollohan d/b/a M & D Excavating Case No. 11WR-CR00453 Wright County Cir. Ct.		1448 Kaylor Road Mountain Grove, MO 65711	1/10/2013	1/10/2013-1/10/2014

Dated this 28th day of January, 2013.



Robert A. Bedell, Acting Division Director

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

**NOTICE OF WINDING UP AND CANCELLATION OF REGISTRATION
TO ALL CREDITORS OF AND CLAIMANTS AGAINST
CLAYTON LAND COMPANY L.P.**

On November 25, 2013, Clayton Land Company L.P., a Missouri limited partnership (the "Partnership"), filed its Cancellation of Registration of Limited Partnership with the Missouri Secretary of State.

Pursuant to Section 359.481 of the Missouri Revised Uniform Limited Partnership Act, persons with claims against the Partnership should present them in accordance with the following procedure:

- A. In order to file a claim with the Partnership, you must furnish the following: (i) name, address and phone number of claimant; (ii) date the claim was incurred; (iii) amount of the claim; (iv) brief description of the nature of the debt or the basis for the claim; and (v) supporting documentation of the claim.
- B. The claim must be mailed to:

Richard A. Roloff
7350 Maryland Avenue
University City, MO 63130

A claim against the Partnership will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND
CLAIMANTS AGAINST GATEWAY CUSTOM SURFACES, LLC**

On November 15, 2013, Gateway Custom Surfaces, LLC, a Missouri Limited Liability Company (the "Company"), filed its Notice of Winding Up with the Missouri Secretary of State, effective on the filing date.

All persons and organizations must submit to the Company, c/o Thomas R. Applewhite, Aektra Legal, LLC, 405 Washington Avenue, Saint Louis, MO 63102, a written summary of any claims against the Company, including: (1) the claimant's name, address and telephone number; (2) the amount of the claim or claims; (3) the date or dates the claim or claims accrued (or will accrue); (4) a brief description of the nature of the claim; and (5) if the claim is secured, and if so, the collateral used as security.

Because of the dissolution, any claims against the Company will be barred unless a proceeding to enforce the claim or claims is commenced within three (3) years after the last filing or publication of this notice.

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—37 (2012) and 38 (2013). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
OFFICE OF ADMINISTRATION					
1 CSR 10	State Officials' Salary Compensation Schedule				37 MoReg 1859 38 MoReg 2053
1 CSR 10-7.010	Commissioner of Administration		38 MoReg 1738		
1 CSR 20-5.015	Personnel Advisory Board and Division of Personnel		38 MoReg 1608		
1 CSR 20-5.020	Personnel Advisory Board and Division of Personnel		38 MoReg 1608		
DEPARTMENT OF AGRICULTURE					
2 CSR 30-2.020	Animal Health		38 MoReg 1360		
2 CSR 30-10.010	Animal Health		This Issue		
2 CSR 80-2.050	State Milk Board		38 MoReg 1363		
2 CSR 80-5.010	State Milk Board		38 MoReg 1363		
2 CSR 90-10	Weights and Measures				38 MoReg 1241
DEPARTMENT OF CONSERVATION					
3 CSR 10-3.010	Conservation Commission		38 MoReg 1742		
3 CSR 10-4.130	Conservation Commission		38 MoReg 1742		
3 CSR 10-5.430	Conservation Commission		38 MoReg 1742		
3 CSR 10-6.510	Conservation Commission		38 MoReg 1742		
3 CSR 10-6.545	Conservation Commission		38 MoReg 1743		
3 CSR 10-6.550	Conservation Commission		38 MoReg 1743		
3 CSR 10-7.410	Conservation Commission		38 MoReg 1744		
3 CSR 10-7.431	Conservation Commission		38 MoReg 1744		
3 CSR 10-7.433	Conservation Commission		38 MoReg 1744		
3 CSR 10-7.440	Conservation Commission		38 MoReg 1745		
3 CSR 10-9.105	Conservation Commission		38 MoReg 1745		
3 CSR 10-9.110	Conservation Commission		38 MoReg 1747		
3 CSR 10-9.442	Conservation Commission		38 MoReg 1750		
3 CSR 10-10.705	Conservation Commission		38 MoReg 1750		
3 CSR 10-10.744	Conservation Commission		38 MoReg 1752		
3 CSR 10-11.130	Conservation Commission		38 MoReg 1752		
3 CSR 10-11.180	Conservation Commission		38 MoReg 1752		
3 CSR 10-11.184	Conservation Commission		38 MoReg 1753		
3 CSR 10-11.185	Conservation Commission		38 MoReg 1753		
3 CSR 10-11.205	Conservation Commission		38 MoReg 1754		
3 CSR 10-12.110	Conservation Commission		38 MoReg 1754		
3 CSR 10-12.115	Conservation Commission		38 MoReg 1755		
3 CSR 10-12.125	Conservation Commission		38 MoReg 1756		
3 CSR 10-12.135	Conservation Commission		38 MoReg 1756		
3 CSR 10-12.140	Conservation Commission		38 MoReg 1757		
3 CSR 10-12.145	Conservation Commission		38 MoReg 1757		
DEPARTMENT OF ECONOMIC DEVELOPMENT					
4 CSR 85-8.010	Division of Business and Community Services	38 MoReg 1925			
4 CSR 85-8.020	Division of Business and Community Services	38 MoReg 1934			
4 CSR 85-8.030	Division of Business and Community Services	38 MoReg 1934			
4 CSR 85-9.010	Division of Business and Community Services	38 MoReg 1935			
4 CSR 85-9.020	Division of Business and Community Services	38 MoReg 1936			
4 CSR 85-9.030	Division of Business and Community Services	38 MoReg 1937			
4 CSR 85-9.040	Division of Business and Community Services	38 MoReg 1947			
4 CSR 85-9.050	Division of Business and Community Services	38 MoReg 1954			
4 CSR 240-3.570	Public Service Commission		38 MoReg 1461R		
4 CSR 240-13.010	Public Service Commission		38 MoReg 1363		
4 CSR 240-13.015	Public Service Commission		38 MoReg 1364		
4 CSR 240-13.020	Public Service Commission		38 MoReg 1365		
4 CSR 240-13.025	Public Service Commission		38 MoReg 1366		
4 CSR 240-13.030	Public Service Commission		38 MoReg 1367		
4 CSR 240-13.035	Public Service Commission		38 MoReg 1368		
4 CSR 240-13.040	Public Service Commission		38 MoReg 1369		
4 CSR 240-13.045	Public Service Commission		38 MoReg 1370		
4 CSR 240-13.050	Public Service Commission		38 MoReg 1371		
4 CSR 240-13.055	Public Service Commission		38 MoReg 1375		
4 CSR 240-13.060	Public Service Commission		38 MoReg 1375		
4 CSR 240-13.070	Public Service Commission		38 MoReg 1376		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 240-18.010	Public Service Commission		38 MoReg 1377	This Issue	
4 CSR 240-31.010	Public Service Commission		38 MoReg 1461		
4 CSR 240-31.020	Public Service Commission		38 MoReg 1463		
4 CSR 240-31.030	Public Service Commission		38 MoReg 1464		
4 CSR 240-31.040	Public Service Commission		38 MoReg 1465R		
4 CSR 240-31.050	Public Service Commission		38 MoReg 1465R		
4 CSR 240-31.060	Public Service Commission		38 MoReg 1466		
4 CSR 240-31.065	Public Service Commission		38 MoReg 1467R		
4 CSR 240-31.070	Public Service Commission		38 MoReg 1468R		
4 CSR 240-31.080	Public Service Commission		38 MoReg 1468R		
4 CSR 240-31.090	Public Service Commission		38 MoReg 1468		
4 CSR 240-31.100	Public Service Commission		38 MoReg 1469R		
4 CSR 240-31.110	Public Service Commission		38 MoReg 1469		
4 CSR 240-31.120	Public Service Commission		38 MoReg 1470		
4 CSR 240-31.130	Public Service Commission		38 MoReg 1472		
4 CSR 240-50.050	Public Service Commission		38 MoReg 1477	This Issue	
4 CSR 240-120.065	Public Service Commission		38 MoReg 1480		
4 CSR 240-120.085	Public Service Commission		38 MoReg 1481		
4 CSR 240-120.130	Public Service Commission		38 MoReg 1481		
4 CSR 240-123.065	Public Service Commission		38 MoReg 1482		
4 CSR 240-123.070	Public Service Commission		38 MoReg 1483		
4 CSR 240-123.095	Public Service Commission		38 MoReg 1483		
4 CSR 240-125.010	Public Service Commission		38 MoReg 1484		
4 CSR 240-125.040	Public Service Commission		38 MoReg 1484		
4 CSR 240-125.070	Public Service Commission		38 MoReg 1485		
4 CSR 265-2.068	Division of Motor Carrier and Railroad Safety <i>(Changed to 7 CSR 265-10.035)</i>		38 MoReg 887	38 MoReg 1892	
4 CSR 265-2.180	Division of Motor Carrier and Railroad Safety <i>(Changed to 7 CSR 265-10.140)</i>		38 MoReg 896	38 MoReg 1894	
4 CSR 265-2.190	Division of Motor Carrier and Railroad Safety <i>(Changed to 7 CSR 265-10.090)</i>		38 MoReg 894	38 MoReg 1893	
4 CSR 265-6.010	Division of Motor Carrier and Railroad Safety <i>(Changed to 7 CSR 265-10.055)</i>		38 MoReg 892	38 MoReg 1892	
4 CSR 265-12.020	Division of Motor Carrier and Railroad Safety		38 MoReg 881R	38 MoReg 1890R	
4 CSR 265-12.030	Division of Motor Carrier and Railroad Safety		38 MoReg 882R	38 MoReg 1890R	
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION					
5 CSR 10-1.010	Commissioner of Education		38 MoReg 1527		
5 CSR 10-2.010	Commissioner of Education		38 MoReg 1966		
5 CSR 10-2.020	Commissioner of Education		38 MoReg 1971		
5 CSR 10-2.030	Commissioner of Education		38 MoReg 1971		
5 CSR 20-100.170	Division of Learning Services		38 MoReg 1972R		
5 CSR 20-100.255	Division of Learning Services		37 MoReg 1571	38 MoReg 520F	
5 CSR 20-100.265	Division of Learning Services		38 MoReg 1758		
5 CSR 20-200.290	Division of Learning Services		38 MoReg 1762		
5 CSR 20-200.300	Division of Learning Services		38 MoReg 1762		
5 CSR 20-300.160	Division of Learning Services		38 MoReg 1527		
5 CSR 20-300.170	Division of Learning Services		38 MoReg 1528		
5 CSR 20-300.180	Division of Learning Services		38 MoReg 1531		
5 CSR 20-300.190	Division of Learning Services		38 MoReg 1531		
5 CSR 20-300.200	Division of Learning Services		38 MoReg 1531		
5 CSR 20-400.375	Division of Learning Services		38 MoReg 825 38 MoReg 1972		
5 CSR 20-400.500	Division of Learning Services		38 MoReg 1976		
5 CSR 20-400.510	Division of Learning Services		38 MoReg 1977		
5 CSR 20-400.520	Division of Learning Services		38 MoReg 1978		
5 CSR 20-400.530	Division of Learning Services		38 MoReg 1979		
5 CSR 20-400.540	Division of Learning Services		38 MoReg 1981		
5 CSR 20-400.550	Division of Learning Services		38 MoReg 1985		
5 CSR 20-400.560	Division of Learning Services		38 MoReg 1987		
5 CSR 20-400.570	Division of Learning Services		38 MoReg 1992		
5 CSR 20-400.580	Division of Learning Services		38 MoReg 1992		
5 CSR 20-400.590	Division of Learning Services		38 MoReg 1993		
5 CSR 20-400.600	Division of Learning Services		38 MoReg 1994		
5 CSR 20-400.610	Division of Learning Services		38 MoReg 1994		
5 CSR 20-400.620	Division of Learning Services		38 MoReg 1998		
5 CSR 20-400.630	Division of Learning Services		38 MoReg 1998		
5 CSR 20-400.640	Division of Learning Services		38 MoReg 1999		
5 CSR 20-400.650	Division of Learning Services		38 MoReg 2002		
5 CSR 20-400.660	Division of Learning Services		38 MoReg 2003		
5 CSR 20-400.670	Division of Learning Services		38 MoReg 2005		
5 CSR 20-400.680	Division of Learning Services		38 MoReg 2006		
5 CSR 20-400.690	Division of Learning Services		38 MoReg 2007		
5 CSR 20-400.700	Division of Learning Services		38 MoReg 2008		
5 CSR 20-500.120	Division of Learning Services		38 MoReg 1764		
5 CSR 30-640.100	Division of Financial and Administrative Services		38 MoReg 1532R		
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7 CSR 10-6.010	Missouri Highways and Transportation Commission		38 MoReg 1860		
7 CSR 10-6.015	Missouri Highways and Transportation Commission		38 MoReg 1861		
7 CSR 10-6.020	Missouri Highways and Transportation Commission		38 MoReg 1862		
7 CSR 10-6.030	Missouri Highways and Transportation Commission		38 MoReg 1863		
7 CSR 10-6.040	Missouri Highways and Transportation Commission		38 MoReg 1864		
7 CSR 10-6.050	Missouri Highways and Transportation Commission		38 MoReg 1870		
7 CSR 10-6.060	Missouri Highways and Transportation Commission		38 MoReg 1870		
7 CSR 10-6.070	Missouri Highways and Transportation Commission		38 MoReg 1871		

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7 CSR 10-6.080	Missouri Highways and Transportation Commission		38 MoReg 1873		
7 CSR 10-6.085	Missouri Highways and Transportation Commission		38 MoReg 1874		
7 CSR 10-6.090	Missouri Highways and Transportation Commission		38 MoReg 1876		
7 CSR 60-2.010	Traffic and Highway Safety Division	38 MoReg 1591	38 MoReg 1610		
7 CSR 60-2.020	Traffic and Highway Safety Division	38 MoReg 1593	38 MoReg 1611		
7 CSR 60-2.030	Traffic and Highway Safety Division	38 MoReg 1595	38 MoReg 1612		
7 CSR 60-2.040	Traffic and Highway Safety Division	38 MoReg 1597	38 MoReg 1613		
7 CSR 60-2.050	Traffic and Highway Safety Division	38 MoReg 1600	38 MoReg 1615		
7 CSR 60-2.060	Traffic and Highway Safety Division		38 MoReg 1616		
7 CSR 265-10.010	Motor Carrier and Railroad Safety		38 MoReg 882	38 MoReg 1890	
7 CSR 265-10.015	Motor Carrier and Railroad Safety		38 MoReg 883R	38 MoReg 1890R	
			38 MoReg 883	38 MoReg 1891	
7 CSR 265-10.020	Motor Carrier and Railroad Safety		38 MoReg 884R	38 MoReg 1891R	
			38 MoReg 884	38 MoReg 1891	
7 CSR 265-10.025	Motor Carrier and Railroad Safety		38 MoReg 885R	38 MoReg 1891R	
			38 MoReg 885	38 MoReg 1891	
7 CSR 265-10.030	Motor Carrier and Railroad Safety		38 MoReg 886R	38 MoReg 1891R	
			38 MoReg 886	38 MoReg 1892	
7 CSR 265-10.035	Motor Carrier and Railroad Safety (<i>Changed from 4 CSR 265-2.068</i>)		38 MoReg 887	38 MoReg 1892	
7 CSR 265-10.040	Motor Carrier and Railroad Safety		38 MoReg 888R	38 MoReg 1892R	
			38 MoReg 888	38 MoReg 1892	
7 CSR 265-10.045	Motor Carrier and Railroad Safety		38 MoReg 889	38 MoReg 1892	
7 CSR 265-10.050	Motor Carrier and Railroad Safety		38 MoReg 889	38 MoReg 1892	
7 CSR 265-10.055	Motor Carrier and Railroad Safety (<i>Changed from 4 CSR 265-6.010</i>)		38 MoReg 892	38 MoReg 1892	
7 CSR 265-10.060	Motor Carrier and Railroad Safety		38 MoReg 893R	38 MoReg 1893R	
7 CSR 265-10.070	Motor Carrier and Railroad Safety		38 MoReg 893R	38 MoReg 1893R	
7 CSR 265-10.080	Motor Carrier and Railroad Safety		38 MoReg 893R	38 MoReg 1893R	
7 CSR 265-10.090	Motor Carrier and Railroad Safety (<i>Changed from 4 CSR 265-2.190</i>)		38 MoReg 894	38 MoReg 1893	
7 CSR 265-10.100	Motor Carrier and Railroad Safety		38 MoReg 894	38 MoReg 1893	
7 CSR 265-10.110	Motor Carrier and Railroad Safety		38 MoReg 895R	38 MoReg 1893R	
			38 MoReg 895	38 MoReg 1894	
7 CSR 265-10.120	Motor Carrier and Railroad Safety		38 MoReg 896R	38 MoReg 1894R	
7 CSR 265-10.130	Motor Carrier and Railroad Safety		38 MoReg 896	38 MoReg 1894	
7 CSR 265-10.140	Motor Carrier and Railroad Safety (<i>Changed from 4 CSR 265-2.180</i>)		38 MoReg 896	38 MoReg 1894	
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8 CSR 10-3.085	Division of Employment Security		38 MoReg 1876		
8 CSR 10-3.150	Division of Employment Security	38 MoReg 1515	38 MoReg 1532		
8 CSR 10-4.020	Division of Employment Security		38 MoReg 1533		
8 CSR 10-4.210	Division of Employment Security	38 MoReg 1516	38 MoReg 1533		
8 CSR 50-2.030	Division of Workers' Compensation		38 MoReg 2087		
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10 CSR 10-3.010	Air Conservation Commission		38 MoReg 1100R	38 MoReg 2045R	
10 CSR 10-5.240	Air Conservation Commission		38 MoReg 1877R		
10 CSR 10-6.010	Air Conservation Commission		38 MoReg 2089		
10 CSR 10-6.020	Air Conservation Commission		38 MoReg 1265		
10 CSR 10-6.070	Air Conservation Commission		38 MoReg 898	38 MoReg 1827	
10 CSR 10-6.075	Air Conservation Commission		38 MoReg 899	38 MoReg 1827	
10 CSR 10-6.080	Air Conservation Commission		38 MoReg 902	38 MoReg 1827	
10 CSR 10-6.130	Air Conservation Commission		38 MoReg 903	38 MoReg 1827	
10 CSR 10-6.161	Air Conservation Commission		38 MoReg 1297		
10 CSR 10-6.200	Air Conservation Commission		38 MoReg 1382		
			38 MoReg 2008		
10 CSR 20-6.011	Clean Water Commission		38 MoReg 1534		
10 CSR 20-7.015	Clean Water Commission		38 MoReg 913		
10 CSR 20-7.031	Clean Water Commission		38 MoReg 939		
10 CSR 23-5.010	Division of Geology and Land Survey		38 MoReg 1101	38 MoReg 1894	
10 CSR 23-5.020	Division of Geology and Land Survey		38 MoReg 1101	38 MoReg 1895	
10 CSR 23-5.030	Division of Geology and Land Survey		38 MoReg 1102	38 MoReg 1895	
10 CSR 23-5.040	Division of Geology and Land Survey		38 MoReg 1102	38 MoReg 1895	
10 CSR 23-5.050	Division of Geology and Land Survey		38 MoReg 1103	38 MoReg 1895	
10 CSR 23-5.060	Division of Geology and Land Survey		38 MoReg 1105	38 MoReg 1898	
10 CSR 23-5.070	Division of Geology and Land Survey		38 MoReg 1105	38 MoReg 1898	
10 CSR 23-5.080	Division of Geology and Land Survey		38 MoReg 1106	38 MoReg 1898	
10 CSR 26-2.062	Petroleum and Hazardous Substance Storage Tanks		38 MoReg 1160	This Issue	
10 CSR 26-2.078	Petroleum and Hazardous Substance Storage Tanks		38 MoReg 1161	This Issue	
10 CSR 26-2.082	Petroleum and Hazardous Substance Storage Tanks		38 MoReg 1162	This Issue	
10 CSR 40-6.030	Land Reclamation Commission		38 MoReg 1298	38 MoReg 2045	
10 CSR 40-6.070	Land Reclamation Commission		38 MoReg 1299	38 MoReg 2045	
10 CSR 40-6.100	Land Reclamation Commission		38 MoReg 1300	38 MoReg 2045	
10 CSR 40-8.030	Land Reclamation Commission		38 MoReg 1301	38 MoReg 2046	
10 CSR 40-8.040	Land Reclamation Commission		38 MoReg 1301	38 MoReg 2046	
10 CSR 140-2	Division of Energy				38 MoReg 432 38 MoReg 1431

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11 CSR 30-15.010	Office of the Director	38 MoReg 1351	38 MoReg 1391	This Issue	
11 CSR 45-5.237	Missouri Gaming Commission		38 MoReg 2019		
11 CSR 45-9.106	Missouri Gaming Commission		38 MoReg 828	38 MoReg 1828	
11 CSR 45-9.110	Missouri Gaming Commission		38 MoReg 828	38 MoReg 1829	
11 CSR 45-9.111	Missouri Gaming Commission		38 MoReg 2020		
11 CSR 45-9.118	Missouri Gaming Commission		38 MoReg 828	38 MoReg 1832	
11 CSR 45-9.119	Missouri Gaming Commission		38 MoReg 2022		
11 CSR 75-17.010	Peace Officer Standards and Training Program	38 MoReg 1517	38 MoReg 1549	This Issue	
11 CSR 75-17.020	Peace Officer Standards and Training Program	38 MoReg 1518	38 MoReg 1549	This Issue	
11 CSR 75-17.030	Peace Officer Standards and Training Program	38 MoReg 1518	38 MoReg 1549	This Issue	
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11 CSR 85-1.015	Veterans Affairs		38 MoReg 1163	38 MoReg 1832	
11 CSR 85-1.020	Veterans Affairs		38 MoReg 1164	38 MoReg 1832	
11 CSR 85-1.030	Veterans Affairs		38 MoReg 1164	38 MoReg 1833	
11 CSR 85-1.040	Veterans Affairs		38 MoReg 1165	38 MoReg 1833	
11 CSR 85-1.050	Veterans Affairs		38 MoReg 1165	38 MoReg 1833	
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12 CSR 10-2.052	Director of Revenue		38 MoReg 1764		
12 CSR 10-23.500	Director of Revenue	38 MoReg 1520	38 MoReg 1550	This Issue	
12 CSR 10-41.010	Director of Revenue	38 MoReg 1965	38 MoReg 2022		
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13 CSR 35-36.010	Children's Division		38 MoReg 2025		
13 CSR 40-2.010	Family Support Division		38 MoReg 1393	This Issue	
13 CSR 40-7.010	Family Support Division		38 MoReg 1394	This Issue	
13 CSR 40-7.015	Family Support Division		38 MoReg 1395	This Issue	
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13 CSR 40-7.040	Family Support Division		38 MoReg 1397	This Issue	
13 CSR 40-24.080	Family Support Division		38 MoReg 2026		
13 CSR 40-24.090	Family Support Division		38 MoReg 2032		
13 CSR 40-24.100	Family Support Division		38 MoReg 2035		
13 CSR 40-100.040	Family Support Division	38 MoReg 1601	38 MoReg 1617		
13 CSR 70-3.030	MO Heathcote Division		38 MoReg 1617		
13 CSR 70-3.200	MO HealthNet Division		38 MoReg 1877		
13 CSR 70-4.120	MO HealthNet Division		38 MoReg 1765		
13 CSR 70-10.015	MO HealthNet Division		38 MoReg 1218	38 MoReg 2046	
13 CSR 70-10.016	MO HealthNet Division		38 MoReg 2039		
13 CSR 70-10.160	MO HealthNet Division	38 MoReg 1520	38 MoReg 1221	38 MoReg 2046	
13 CSR 70-15.010	MO HealthNet Division	38 MoReg 1215	38 MoReg 1222	38 MoReg 2046	
13 CSR 70-15.030	MO HealthNet Division		38 MoReg 1618		
13 CSR 70-15.110	MO HealthNet Division	38 MoReg 1216	38 MoReg 1226	38 MoReg 2046	
13 CSR 70-15.160	MO HealthNet Division		38 MoReg 1232	38 MoReg 2047	
13 CSR 70-20.031	MO HealthNet Division		38 MoReg 1619		
13 CSR 70-20.032	MO HealthNet Division		38 MoReg 1620		
13 CSR 70-20.050	MO HealthNet Division		38 MoReg 1620		
13 CSR 70-20.060	MO HealthNet Division		38 MoReg 1768		
13 CSR 70-20.071	MO HealthNet Division		38 MoReg 1769		
13 CSR 70-20.200	MO HealthNet Division		38 MoReg 1769		
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13 CSR 70-20.310	MO HealthNet Division		38 MoReg 1622		
13 CSR 70-25.120	MO HealthNet Division		38 MoReg 1880		
13 CSR 70-40.010	MO HealthNet Division		38 MoReg 1882		
13 CSR 70-45.010	MO HealthNet Division		38 MoReg 1883		
13 CSR 70-50.010	MO HealthNet Division		38 MoReg 1770		
13 CSR 70-60.010	MO HealthNet Division		38 MoReg 1776		
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13 CSR 70-98.015	MO HealthNet Division		38 MoReg 1777		
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15 CSR 30-15.010	Secretary of State		38 MoReg 1553		
15 CSR 30-15.020	Secretary of State		38 MoReg 1553		
15 CSR 30-15.030	Secretary of State		38 MoReg 1486	This Issue	
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15 CSR 30-54.150	Secretary of State		38 MoReg 838		
15 CSR 30-90.010	Secretary of State	38 MoReg 1522	38 MoReg 1554		
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16 CSR 10-3.010	The Public School Retirement System of Missouri		38 MoReg 1233	38 MoReg 2047	
16 CSR 10-4.005	The Public School Retirement System of Missouri		38 MoReg 1234	38 MoReg 2047	
16 CSR 10-5.010	The Public School Retirement System of Missouri		38 MoReg 1235	38 MoReg 2047	
16 CSR 10-6.020	The Public School Retirement System of Missouri		38 MoReg 1235	38 MoReg 2048	
16 CSR 10-6.060	The Public School Retirement System of Missouri		38 MoReg 1237	38 MoReg 2048	
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19 CSR 25-30.051	State Public Health Laboratory		38 MoReg 1625		
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19 CSR 30-20.098	Division of Regulation and Licensure		38 MoReg 1166	38 MoReg 2093	
19 CSR 30-20.110	Division of Regulation and Licensure		38 MoReg 1167	38 MoReg 2093	
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19 CSR 30-20.118	Division of Regulation and Licensure		38 MoReg 1170	38 MoReg 2094	
19 CSR 30-20.122	Division of Regulation and Licensure		38 MoReg 1170R	38 MoReg 2094R	
19 CSR 30-20.124	Division of Regulation and Licensure		38 MoReg 1171	38 MoReg 2094	
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20 CSR	Sovereign Immunity Limits				38 MoReg 147 This Issue
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20 CSR 200-2.100	Insurance Solvency and Company Regulation	38 MoReg 1695	38 MoReg 1778		
20 CSR 400-2.160	Life, Annuities and Health		38 MoReg 1555		
20 CSR 400-5.600	Life, Annuities and Health		38 MoReg 1885		
20 CSR 400-11.100	Life, Annuities and Health	38 MoReg 1353	38 MoReg 1397	38 MoReg 2095	
20 CSR 400-11.120	Life, Annuities and Health	38 MoReg 1732	38 MoReg 1816		
20 CSR 400-12.100	Life, Annuities and Health	38 MoReg 1737	38 MoReg 1826		
20 CSR 1140-30.240	Division of Finance		38 MoReg 1628		
20 CSR 2010-2.160	Missouri State Board of Accountancy	38 MoReg 1159	38 MoReg 1172	38 MoReg 1833	
20 CSR 2030-2.040	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		38 MoReg 1487		
20 CSR 2030-2.050	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		38 MoReg 1487		
20 CSR 2030-2.060	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		38 MoReg 1487		
20 CSR 2063-6.005	Behavior Analyst Advisory Board		38 MoReg 1631		
20 CSR 2085-8.070	Board of Cosmetology and Barber Examiners		This Issue		
20 CSR 2085-12.010	Board of Cosmetology and Barber Examiners		38 MoReg 1637		
20 CSR 2085-12.020	Board of Cosmetology and Barber Examiners		38 MoReg 1637		
20 CSR 2085-13.070	Board of Cosmetology and Barber Examiners		38 MoReg 1638		
20 CSR 2145-1.040	Missouri Board of Geologist Registration		38 MoReg 1114	38 MoReg 2048	
20 CSR 2145-2.020	Missouri Board of Geologist Registration		38 MoReg 1116	38 MoReg 2048	
20 CSR 2145-2.030	Missouri Board of Geologist Registration		38 MoReg 1116	38 MoReg 2048	
20 CSR 2145-2.065	Missouri Board of Geologist Registration		38 MoReg 1117	38 MoReg 2049	
20 CSR 2145-2.080	Missouri Board of Geologist Registration		38 MoReg 1120	38 MoReg 2049	
20 CSR 2165-1.020	Board of Examiners for Hearing Instrument Specialists		38 MoReg 1638		
20 CSR 2165-2.030	Board of Examiners for Hearing Instrument Specialists		38 MoReg 1641		
20 CSR 2200-1.010	State Board of Nursing		38 MoReg 1641		
20 CSR 2200-4.020	State Board of Nursing		38 MoReg 1642		
20 CSR 2200-4.030	State Board of Nursing		38 MoReg 1556		
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20 CSR 2220-2.950	State Board of Pharmacy		38 MoReg 1237	38 MoReg 2049	
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20 CSR 2232-2.010	Missouri State Committee of Interpreters		38 MoReg 1412	38 MoReg 2096	
20 CSR 2232-2.020	Missouri State Committee of Interpreters		38 MoReg 1416	38 MoReg 2096	
20 CSR 2232-2.030	Missouri State Committee of Interpreters		38 MoReg 1420	38 MoReg 2096	
20 CSR 2234-1.010	Board of Private Investigator Examiners		38 MoReg 1643		
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20 CSR 2234-2.010	Board of Private Investigator Examiners		38 MoReg 1649		
20 CSR 2234-2.015	Board of Private Investigator Examiners		38 MoReg 1649		
20 CSR 2234-2.020	Board of Private Investigator Examiners		38 MoReg 1654		
20 CSR 2234-2.030	Board of Private Investigator Examiners		38 MoReg 1654		
20 CSR 2234-2.040	Board of Private Investigator Examiners		38 MoReg 1654		
20 CSR 2234-3.010	Board of Private Investigator Examiners		38 MoReg 1658		
20 CSR 2234-3.020	Board of Private Investigator Examiners		38 MoReg 1658		
20 CSR 2234-3.030	Board of Private Investigator Examiners		38 MoReg 1659		
20 CSR 2234-3.040	Board of Private Investigator Examiners		38 MoReg 1659		
20 CSR 2234-3.070	Board of Private Investigator Examiners		38 MoReg 1659		
20 CSR 2234-4.010	Board of Private Investigator Examiners		38 MoReg 1660R		
20 CSR 2234-4.020	Board of Private Investigator Examiners		38 MoReg 1660R		
20 CSR 2234-4.030	Board of Private Investigator Examiners		38 MoReg 1660R		
20 CSR 2234-4.040	Board of Private Investigator Examiners		38 MoReg 1660R		
20 CSR 2234-4.050	Board of Private Investigator Examiners		38 MoReg 1661R		
20 CSR 2234-6.010	Board of Private Investigator Examiners		38 MoReg 1661		
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20 CSR 2235-1.020	State Committee of Psychologists		38 MoReg 1175	38 MoReg 2050	
20 CSR 2235-1.025	State Committee of Psychologists		38 MoReg 1179	38 MoReg 2050	
20 CSR 2235-1.026	State Committee of Psychologists		38 MoReg 1179	38 MoReg 2050	
20 CSR 2235-1.030	State Committee of Psychologists		38 MoReg 1179R	38 MoReg 2051R	
20 CSR 2235-2.060	State Committee of Psychologists		38 MoReg 1180	38 MoReg 2051	
20 CSR 2235-2.065	State Committee of Psychologists		38 MoReg 1182	38 MoReg 2051	
20 CSR 2245-1.010	Real Estate Appraisers		38 MoReg 1303	38 MoReg 2052	
20 CSR 2245-3.005	Real Estate Appraisers		38 MoReg 1304	38 MoReg 2052	
20 CSR 2245-3.010	Real Estate Appraisers		38 MoReg 1304	38 MoReg 2052	
20 CSR 2245-6.040	Real Estate Appraisers		38 MoReg 1305	38 MoReg 2052	
20 CSR 2245-8.010	Real Estate Appraisers		38 MoReg 1305	38 MoReg 2052	
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22 CSR 10-2.054	Health Care Plan	This IssueR	This IssueR		
22 CSR 10-2.055	Health Care Plan	This IssueR	This IssueR		
22 CSR 10-2.060	Health Care Plan	This Issue	This Issue		
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4 CSR 85-8.020	Program Administration38 MoReg 1934	Nov. 7, 2013 May 5, 2014
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22 CSR 10-3.130	Additional Plan Options38 MoReg 1359	July 26, 2013 Jan. 21, 2014

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	2013		
13-14	Orders the Missouri Department of Revenue to follow sections 143.031.1 and 143.091, RSMo, and require all taxpayers who properly file a joint federal income tax return to file a combined state income tax return.	Nov. 14, 2013	38 MoReg 2085
13-13	Advises that state offices will be closed on Friday November 29, 2013.	Nov. 1, 2013	38 MoReg 1859
13-12	Activates the state militia in response to the heavy rains, flooding, and flash flooding that began on Aug. 2, 2013.	Aug. 7, 2013	38 MoReg 1459
13-11	Declares a state of emergency and activates the Missouri State Operation Plan due to heavy rains, flooding, and flash flooding.	Aug. 6, 2013	38 MoReg 1457
13-10	Declares a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated.	May 31, 2013	38 MoReg 1097
13-09	Designates members of the governor's staff to have supervisory authority over certain departments, divisions, and agencies.	May 3, 2013	38 MoReg 879
13-08	Activates the state militia in response to severe weather that began on April 16, 2013.	April 19, 2013	38 MoReg 823
13-07	Declares a state of emergency and directs that the Missouri State Emergency Operations Plan be activated due to severe weather that began on April 16, 2013.	April 19, 2013	38 MoReg 821
13-06	Declares a state of emergency and activates the Missouri State Emergency Operations Plan in response to severe weather that began on April 10, 2013.	April 10, 2013	38 MoReg 753
13-05	Declares a state of emergency and directs that the Missouri State Emergency Operations Plan be activated due to severe weather that began on Feb. 20, 2013.	Feb. 21, 2013	38 MoReg 505
13-04	Expresses the commitment of the state of Missouri to the establishment of Western Governors University (WGU) as a non-profit institution of higher education located in Missouri that will provide enhanced access for Missourians to enroll in and complete on-line, competency-based higher education programs. Contemporaneously with this Executive Order, the state of Missouri is entering into a Memorandum of Understanding (MOU) with WGU to further memorialize and establish the partnership between the state of Missouri and WGU.	Feb. 15, 2013	38 MoReg 467
13-03	Orders the transfer of the Division of Energy from the Missouri Department of Natural Resources to the Missouri Department of Economic Development.	Feb. 4, 2013	38 MoReg 465
13-02	Orders the transfer of the post-issuance compliance functions for tax credit and job incentive programs from the Missouri Department of Economic Development to the Missouri Department of Revenue.	Feb. 4, 2013	38 MoReg 463
13-01	Orders the transfer of the Center for Emergency Response and Terrorism from the Department of Health and Senior Services to the Department of Public Safety.	Feb. 4, 2013	38 MoReg 461

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