
Rules of Department of Natural Resources

Division 20—Clean Water Commission

Chapter 4—Grants

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES**

**Division 20—Clean Water Commission
Chapter 4—Grants**

**10 CSR 20-4.010 Construction Grants
Priority System**

PURPOSE: This rule sets forth the system used by the commission to prioritize projects for the Environmental Protection Agency wastewater treatment construction grants program, the state matching grant program and the state construction grants program. This rule sets forth state eligibility limitations for grants under the Environmental Protection Agency wastewater treatment construction grants program and the state matching grant program. This rule also sets forth the methods used by the commission to develop and modify lists of grant projects eligible for funding under the Environmental Protection Agency wastewater treatment construction grants program and the state matching grant program.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Priority Point System. The commission will prioritize potential grant projects, with the exception of unsewered community reserve projects, by assigning priority points under subsection (1)(A) of this rule. In certain unique situations, the commission may award special priority under subsection (1)(B) of this rule. The commission will prioritize unsewered community reserve projects by assigning priority points under subsection (1)(C) of this rule.

(A) Basic Priority Points. The commission will use the mathematical formula contained in this subsection to award basic priority points to each potential grant project, with the exception of unsewered community reserve projects. The description of each of

the factors contained in this formula is contained in paragraphs (1)(A)1.–10. of this rule.

For the purpose of assigning points under factors A and B following, the receiving water is considered to be the immediate water course into which the discharge flows; however, in those cases where the immediate receiving water is not classified in Water Quality Standards 10 CSR 20-7.031, a downstream classified water body will be considered to be the receiving water if the publicly-owned treatment works (POTW) discharge is either within one (1) mile of the classified water, or is farther away than one (1) mile, but has a demonstrated or predicted use impairment on the classified water:

1. Factor A. Factor A expresses the seven (7)-day Q_{10} streamflow of the stream receiving discharge from existing POTWs to be improved or eliminated by the proposed grant project. This factor is expressed in cubic feet per second. For lake discharges, factor A equals ten (10). In the case of those proposed grant projects which will not improve or eliminate existing POTWs, factor A equals zero (0);

2. Factor B. Factor B expresses the beneficial uses of the stream or lake receiving discharge from existing POTWs to be improved or eliminated by the proposed grant project. The values for factor B were calculated by adding the total values calculated under subparagraphs (1)(A)2.A. and B. of this rule. Factor B equals zero (0) for all proposed grant projects which will not improve or eliminate existing POTWs or which do not qualify under subparagraphs (1)(A)2.A. or B. of this rule.

A. Two (2) points are awarded for each of the following beneficial uses identified in 10 CSR 20-7.031: whole body contact recreation, drinking water supply and cold water sport fisheries.

B. One (1) point is awarded for each beneficial use identified in 10 CSR 20-7.031 and not contained in subparagraph (1)(A)2.A. of this rule.

3. Factor C. Factor C equals two (2) points for proposed grant projects lying in the Ozark area. For purposes of this paragraph, the Ozark area is defined as areas of exposed Ordovician age and older formations, and Burlington limestone in southwest Missouri.

For projects lying outside the Ozark area, factor C equals zero (0).

4. Factor D. Factor D awards additional points for proposed grant projects which will improve or eliminate existing POTWs which directly discharge to certain sensitive waters. The value for factor D is calculated by awarding two (2) points for each of the following: losing stream as designated by the Division of Geology and Land Survey; Wild and Scenic Riverways as designated by the National Forest Service or the National Park Service; lakes; or metropolitan no-discharge streams as identified in 10 CSR 20-7.031. For all other projects, factor D equals zero (0).

5. Factor E. Factor E expresses the 1980 population or population equivalent. In most cases, factor E equals the estimated 1980 population contained in the proposed project's service area. However, in those cases known to have significant industrial organic loadings, factor E equals the estimated 1980 population plus the estimated industrial organic loadings expressed as population equivalents.

6. Factor F. Factor F equals three (3) points for known problems or one (1) point for potential problems resulting from industrial discharge to an existing POTW of priority pollutants identified by Environmental Protection Agency (EPA). These points will only apply to those projects which propose to improve or eliminate the existing POTW having these industrial discharges. Factor F equals zero (0) for all other projects.

7. Factor G. Factor G equals the monthly average concentration, in milligrams per liter, of the biochemical oxygen demand₅ (BOD₅) in excess of the National Pollutant Discharge Elimination System (NPDES) permit limits for existing POTWs to be improved or eliminated by the proposed grant project. The concentration of BOD₅ being discharged is calculated by averaging BOD₅ values reported to the department by the permittee in the discharge monitoring reports required in the NPDES permit. The department will adjust values downward where excessively high BOD₅ is thought to result from lack of proper operation and maintenance, rather than physical plant problems (see also subsection (4)(A) of this rule).

8. Factor H. Factor H equals the estimated effluent flow expressed in cubic feet per second. These estimates were based upon 1980 population estimates, assuming one hundred (100) gallons of effluents will be generated per capita per day. The department will add any known, significant flows to this estimated domestic flow.

9. Factor J. Factor J expresses a dilution factor adjustment. Values for this factor are

$$\text{Basic Priority Points} = \left[\frac{\text{Log } 10(A + 1) + B + \frac{C + D + \text{Log } 10(E) + F + (G \div 10)}{(A \div J) + H}}{H} + V \right] \times 10$$

calculated for proposed grant projects which will improve or eliminate existing POTWs in subparagraphs (1)(A)9.A.–C. of this rule.

A. Factor J equals five hundred (500) if the existing POTW discharge does not meet applicable NPDES limits for fecal coliform and discharge is to a stream or lake designated for whole body contact recreation in rule 10 CSR 20-7.031.

B. Factor J equals fifty (50) if the factor C equals two (2) under paragraph (1)(A)3. of this rule and if the project does not qualify for five hundred (500) points under subparagraph (1)(A)9.A. of this rule.

C. Factor J equals five (5) if discharge is to a prairie stream or to a stream in the Mississippi Embayment area and if the project does not qualify for five hundred (500) points under subparagraph (1)(A)9.A. of this rule.

10. Factor V. Factor V expresses the impact of POTWs to be improved or eliminated by the proposed grant project, on the receiving stream or lake. Factor V is assigned a value of from zero to twelve (0–12) points, based on the classification of the receiving water in 10 CSR 20-7.031, the severity of the impact and the length of the affected receiving water reach. Data from direct observations are used, and impacts are estimated, based on similar situations, where no specific data are available.

(B) Special Priority. The commission may assign special priority and override the priority points assigned to a project under subsection (1)(A) of this rule and place that project on the planning, fundable or contingency priority lists in a position decided by the commission. In order to award special priority, the commission must determine that unique or unusual needs exist which do not logically fit into the rating system described in subsection (1)(A) of this rule. In addition, the commission may award special priority for projects impacting enterprise zones as authorized under state law.

(C) Unsewered Community Reserve Priority Points. The commission will use the mathematical formula contained in this subsection to award priority points to projects competing for funds from the unsewered community reserve. The description of each of the factors contained in this formula is contained in paragraphs (1)(C)1.–5. of this rule.

Unsewered Community Reserve

$$\text{Points} = K + L + \frac{(M - N)}{100} + \times V(2)$$

1. Factor K. Factor K expresses the potential for groundwater pollution wastewater treatment systems. The numerical value

for Factor K will be calculated by the Missouri Division of Geology and Land Survey following a site survey and application of the groundwater criteria contained in Engineering Geology Report Number 7, *Geologic Aspects of Home Liquid-Waste Disposal in Missouri*.

2. Factor L. Factor L expresses the potential for surface water contamination from waste treatment systems. The numerical value for Factor L will be calculated by the Missouri Division of Geology and Land Survey following a site survey and application of the surface water criteria contained in Engineering Geology Report Number 7, *Geologic Aspects of Home Liquid-Waste Disposal in Missouri*.

3. Factor M. Factor M equals the 1980 population as contained in the official 1980 census.

4. Factor N. Factor N equals the 1960 population as contained in the official 1960 census.

5. Factor V. Factor V expresses the observed impact of waste treatment systems on surface waters of the state. Factor V is calculated as stated under paragraph (1)(A)10. of this rule.

(2) Priority Lists. Each year, following a public hearing, the commission shall establish priority lists for using future anticipated federal grant allocations. These lists shall contain several parts, as described in subsections (2)(A)–(E) of this rule.

(A) Fundable Lists. The fundable priority lists identify those projects which the commission intends to fund during a given federal fiscal year from anticipated federal grant allocations. The commission shall develop fundable priority lists as described in paragraphs (2)(A)1.–5. of this rule. Projects will not be considered for the fundable lists if the applicant fails to update the cost estimates by February 1 prior to the fiscal year for which funds are requested. These lists shall become effective after a federal allotment of grant funds is announced by EPA. However, the commission may bypass projects on these lists prior to their effective date.

1. Metropolitan St. Louis Sewer District MSD fundable list. The commission shall determine the amount of the anticipated federal grants allocations to be awarded to projects under the jurisdiction of the. The MSD fundable priority list shall consist of the highest priority projects under the jurisdiction of the which the commission determines will be ready for an award by April 1 of the federal fiscal year for which the federal funds are anticipated.

2. Kansas City fundable list. For fiscal years after FY86, the commission shall determine the amount of the anticipated federal grants allocations to be awarded to projects under the jurisdiction of Kansas City. The Kansas City fundable priority list shall consist of the highest priority projects under the jurisdiction of Kansas City which the commission determines will be ready for an award by April 1 of the federal fiscal year for which the federal funds are anticipated.

3. Primary treatment fundable list. The commission shall determine the amount of federal grant allocations to be awarded to projects eliminating or upgrading POTWs providing only primary treatment and having average dry-weather flows in excess of one hundred thousand (100,000) gallons per day. The primary treatment fundable list shall consist of the highest priority projects meeting this criteria. Projects qualifying for this list are also limited to those which the commission determines will be ready to proceed prior to April 1 of the federal fiscal year for which the funds are anticipated.

4. Outstate fundable list. The commission shall determine the amount of the anticipated federal grants allocations to be awarded to projects under the jurisdiction of applicants other than those described in paragraphs (2)(A)1. and 2. of this rule. The outstate fundable priority list shall consist of the highest priority projects eligible for this list which the commission determines will be ready for an award by April 1 of the federal fiscal year for which the federal funds are anticipated.

5. Unsewered community reserve fundable list. The commission shall determine the amount of the anticipated federal grants allocations to be awarded to projects competing for unsewered community reserve funds. The unsewered community reserve fundable list shall consist of the highest priority unsewered community reserve projects which submit their facilities plan prior to January 1 of the fiscal year prior to the fiscal year for which federal funds are anticipated.

6. Small community alternative fundable list. The commission shall determine the amount of federal grants allocations to be awarded to projects competing for small community alternative reserve funds. The small community alternative reserve fundable list shall consist of the highest priority small community alternative reserve projects which submit their facilities plan before January 1 prior to the fiscal year for which federal funds are anticipated and which meet the criteria stated in subsection (3)(E). This facility plan must recommend Innovative Alternative (I/A) technology as the selected alternative.

(B) Contingency Priority List. The contingency priority lists identifies those projects which may be considered for funding during a given fiscal year if unanticipated or uncommitted EPA grant funds become available. The commission shall develop contingency priority lists as described in paragraphs (2)(B)1.—5. of this rule. Projects will not be considered for the contingency lists if the applicant fails to update the cost estimates by February 1 of the fiscal year for which funds are requested. These lists shall become effective after a federal allotment of grant funds for the fiscal year is announced by EPA.

1. MSD contingency list. The MSD contingency list shall consist of the highest priority projects under the jurisdiction of MSD remaining after removal of the fundable list projects. Projects qualifying for this list also are limited to those which the commission determines will be ready for an award by July 1 of the federal fiscal year for which the federal funds are anticipated.

2. Kansas City contingency list. The Kansas City contingency list shall consist of the highest priority projects under the jurisdiction of Kansas City remaining after removal of the fundable list projects. Projects qualifying for this list also are limited to those which the commission determines will be ready for an award by July 1 of the federal fiscal year for which the federal funds are anticipated.

3. Primary treatment contingency list. The primary treatment contingency list shall consist of the highest priority projects meeting the treatment level and size criteria of paragraph (2)(A)1. which remain after removal of the fundable list projects. Projects qualifying for this list also are limited to those which the commission determines will be ready to proceed prior to July 1 of the federal fiscal year for which funds are anticipated.

4. Outstate contingency list. The outstate contingency list shall consist of the highest priority projects under the jurisdiction of applicants other than MSD remaining after removal of the fundable list projects. Projects qualifying for this list also are limited to those which the commission determines will be ready for an award by July 1 of the federal fiscal year for which the federal funds are anticipated.

5. Unsewered community reserve contingency list. The unsewered community reserve contingency list shall consist of the highest priority unsewered community reserve projects remaining after removal of the fundable list projects. Projects qualifying for this list also are limited to those which submit their facilities plan prior to January 1

of the fiscal year prior to the fiscal year for which the federal funds are anticipated.

6. Small community alternative contingency list. The small community alternative contingency list shall consist of the highest priority small community alternative reserve projects remaining after removal of the fundable list projects. Projects qualifying for this list also are limited to those which submit their facilities plan prior to January 1 of the fiscal year prior to the fiscal year for which the federal funds are anticipated and which meet the criteria stated in subsection (3)(E). This facility plan must recommend I/A technology as the selected alternative.

(C) Planning List. The planning lists identify all potential grant projects not contained on a fundable priority list. The commission shall develop planning lists as described in paragraphs (2)(C)1.—3. of this rule. These lists shall become effective upon adoption by the commission.

1. General planning list. The general planning list shall contain all potential projects which are not on a fundable priority list.

2. Unsewered community reserve planning list. The unsewered community reserve planning lists shall contain all potential unsewered community reserve projects not on the unsewered community reserve fundable list which submit their facilities plan prior to January 1 of the fiscal year prior to the fiscal year for which the federal funds are anticipated.

3. Small community alternative planning list. The small community alternative planning list shall contain all potential small community alternative projects which submit their facilities plan prior to January 1 of the fiscal year prior to the fiscal year for which the federal funds are anticipated and which meet the criteria stated in subsection (3)(E).

4. Primary treatment planning list. The primary treatment planning list shall contain all projects meeting the treatment level and size criteria of paragraph (2)(A)2.

(D) Reserves. The commission shall determine the amount of the anticipated federal grants allocations to be placed into each reserve discussed in section (3) of this rule. The amount of funds assigned to each reserve shall become effective after a federal allocation of grant funds for the fiscal year is announced by EPA.

(E) Carryover Priority List. The commission shall maintain a carryover priority list identifying unfunded projects approved for funding in a prior federal fiscal year which retain their funding eligibility in the current federal fiscal year.

(3) Reserves Management. The special reserves to which the commission may distribute portions of anticipated federal grants allocations are listed in subsections (3)(A)—(G) of this rule.

(A) State Management Assistance Reserve. The commission may place a portion of anticipated federal grants allocations in the state management assistance reserve. Any funds placed in this reserve by the commission will be granted to the department by the EPA for use in administering portions of the department's water pollution control activities.

(B) Water Quality Management Reserve. The commission shall place a portion of anticipated grants federal allocations in the water quality management reserve. Funds placed in this reserve will be granted to the department by the EPA to support water quality management planning by the department.

(C) Step 1-2 Advance Reserve. The commission may place a portion of anticipated federal grants allocations in the advance reserve. Funds placed in this reserve will be granted to the department by EPA to support a program of advancing grant funds to certain grantees of less than twenty thousand (20,000) population to help offset the cost of project engineering work which must precede an EPA grant for construction.

(D) Innovative/Alternative Reserve. The commission shall place a portion of anticipated federal grants allocations in the innovative and alternative reserve. Funds placed in this reserve shall only be used to provide an increase in the federal grant percentage on those projects or portions of projects using I/A technology. The department will ask EPA to award these funds to qualifying projects on a first-come, first-serve basis until this reserve is depleted.

(E) Small Community Alternative Reserve. The commission shall place a portion of anticipated grants allocations in the small community alternative reserve. Funds placed in this reserve shall be used to award grants to applicants having projects or project portions qualifying under federal law for these funds and which have been placed on the small community alternative fundable list. In order to compete for these funds, a project must meet the criteria in paragraphs (3)(E)1.—3. of this rule.

1. The applicant must have a population of thirty-five hundred (3500) people or less.

2. The project or project portion must make use of innovative or alternative technology.

3. Other EPA funds are available to support the portions of the project not qualifying as innovative or alternative. (The commission will consider exceptions where the project

requires less than one hundred thousand dollars (\$100,000) in outstate general funds.)

(F) Unsewered Community Reserve. The commission may place a portion of anticipated grants allocations in the unsewered community reserve. Funds placed in this reserve shall be used to award grants to applicants placed on the unsewered reserve fundable list and not having a POTW of greater than seventy-five (75) population equivalents.

(G) Grant Increase Reserve. The commission may place a portion of anticipated grant allocations in the grant increase reserve. Funds placed in this reserve shall be used to award needed grant increases to projects which are funded or which are on a current fundable priority list or current carryover priority list. The department will review each request for these funds on a case-by-case basis to determine the reasonableness of the request, relative need, eligibility for funding under this program and availability of funds in this reserve. Following this review, the department will ask EPA to award funds from this reserve to those projects approved for a grant increase by the department or the commission. Projects under the jurisdiction of the MSD will not qualify for funds from this reserve. Projects under the jurisdiction of Kansas City will not qualify for funds from this reserve in fiscal years following FY86.

(4) Limits on Eligibility. In addition to the limitations on eligibility established by EPA, the commission limitations on grant eligibility stated in subsections (4)(A)–(O) of this rule will apply to all EPA construction grant projects.

(A) Projects will not be eligible if the applicant is in noncompliance with commission regulations, policies or with the requirements of a NPDES permit. Exceptions may be granted for failure to meet effluent limitations and sewage bypass restrictions due to inadequate physical facilities.

(B) The cost of land purchase for the purpose of effluent irrigation will not be eligible unless the wastewater is applied at rates approaching the maximum rates allowed for land treatment.

(C) The cost of tractors, mowers, pickups or other multiple use equipment will not be eligible.

(D) The cost of locating and uncovering manholes for inspection or flow monitoring will not be eligible.

(E) The cost of constructing collector sewers and appurtenances will not be eligible. Exceptions may be made if the commission and the governor decide to use a portion of the federal grant funds to construct collection sewers.

(F) The cost of constructing laboratory facilities will not be eligible unless construction and operation of a laboratory is more cost effective than the use of cooperative facilities or the use of contractual arrangements for laboratory testing.

(G) Replacement of pump stations that are otherwise eligible which are at or near their design life, yet are structurally sound and capable of handling existing and design flows for the project, will not be eligible. Those needing modifications to bring them to current design standards will have eligibility limited to the cost of the modifications required to meet the existing standards at existing flows for the project. For those projects qualifying for grandfathering of reserve capacity under the Clean Water Act, eligibility will include modifications required to meet existing standards at design flows for the project.

(H) The total EPA grant assistance on a project shall not exceed five thousand dollars (\$5000) per connection. For sewered communities, the number of connections will be those in existence on the date of grant award. For unsewered communities, the number of connections will be the number of connections anticipated at the completion of the grant project.

(I) The cost of land for sludge landfills will not be eligible.

(J) The cost of dry weather bypass elimination will not be eligible if the bypass problem is caused by improper operation and maintenance.

(5) Transfer of Funds. After the commission adopts the priority lists and establishes reserves under section (2) of this rule, the commission may transfer funds among the reserves, the fundable priority lists and the carryover priority lists. The commission also may add or remove projects from the fundable, carryover and contingency priority lists in accordance with the procedures stated in subsections (5)(A)–(D) of this rule.

(A) Inadequate Allocations. If the actual federal grants allocations are less than the allocations anticipated by the commission in the development of the fundable priority list and reserves or if previous allocations are reduced, the commission may find it necessary to reduce their commitments to projects on the fundable or carryover lists or to the various reserves listed in section (3) of this rule. The commission may take formal action to reduce the number of commitments in accordance with paragraphs (5)(A)1.–3. of this rule.

1. The commission may reduce the amount of funds allocated to each reserve identified in section (3) of this rule.

2. The commission may remove the lowest priority projects from the carryover or fundable priority lists, placing these projects on the contingency priority list in a position dictated by their priority relative to others on the contingency priority list.

3. The commission may bypass projects on the fundable or carryover priority lists in accordance with subsection (5)(C) of this rule.

(B) Unanticipated and Uncommitted Funds. If unanticipated or uncommitted funds become available, the commission may take formal action to distribute them in accordance with paragraphs (5)(B)1.–3. of this rule, if they become available before July 1 of the federal fiscal year. All funds that become available after July 1 of the fiscal year may be distributed in accordance with paragraphs (5)(B)2.–4. of this rule.

1. The commission may use the unanticipated or uncommitted funds to move the highest priority project(s) from contingency priority list to the proper fundable priority list. This action is limited to those contingency list projects which the commission determines will be ready for award by July 1 of the federal fiscal year. This paragraph does not prohibit the transfer of funds among the various fundable and contingency lists.

2. The commission may use the unanticipated or uncommitted funds to increase the amount of funds allocated to the various reserves listed under section (3) of this rule.

3. The commission may use the unanticipated or uncommitted funds to award grants to projects receiving special priority under subsection (1)(C) of this rule. The commission may not take this action without previous notification of intent to applicants for those projects on the contingency priority lists.

4. The commission may use the unanticipated or uncommitted funds to award grants to the highest priority projects on any contingency list which have met all requirements for an EPA construction grant. If enough projects are not available to use all unanticipated or uncommitted funds, the commission may distribute these funds on a first-come first-serve basis to any project on contingency lists as they complete all requirements for an EPA construction grant.

(C) Project Bypass. The commission may bypass any project on the carryover or fundable priority list which is not, in the commission's opinion, making satisfactory progress in satisfying requirements for an EPA construction grant. Bypassed projects will be removed from the carryover and fundable priority lists and placed on the proper contingency priority list in a position dictated by the commission. In determining whether a

project is making satisfactory progress in satisfying the requirements for an EPA construction grant, the commission shall use the criteria contained in paragraphs (5)(C)1.-3. of this rule. The commission may reinstate any bypassed projects on the fundable or carryover priority lists after first giving notice to applicants for those projects on the contingency lists of the commission's intent to reinstate bypassed projects. Funds released through project bypass will be considered uncommitted and available for distribution in accordance with subsection (5)(B) of this rule.

1. All projects originally on the fundable or carryover lists, when they become effective in accordance with section (2) of this rule, may be bypassed if the applicant fails to submit all documents required for an EPA construction grant award by February 1 of the federal fiscal year and if the department does not give formal approval to all these documents by April 1 of the federal fiscal year, with the exception of the facilities plan which must have a finding of no significant impact, or its equivalent, issued by April 1.

2. All projects on a current fundable or carryover list, which were placed on these lists after they become effective in accordance with section (2) of this rule, may be bypassed if the applicant fails to submit all documents required for an EPA construction grant award by May 1 of the federal fiscal year and if the department does not give formal approval to all these documents by July 1 of the federal fiscal year, with the exception of the facilities plan which must be approvable by July 1.

3. The commission may use individual project schedules developed by the department to determine whether an EPA grants project on the current fundable or carryover lists is making satisfactory progress at those times during the federal fiscal year not addressed in paragraph (5)(C)1. or 2. of this rule.

(D) Project Removal. The department will remove projects from the contingency, fundable, carryover or planning lists if they meet any one (1) of the criteria stated in paragraphs (5)(D)1.-5. of this rule.

1. The department will remove a project if it is funded by EPA.

2. The department will remove a project if it is determined to be ineligible for funding under the EPA wastewater treatment construction grants program.

3. The department will remove projects from these lists if directed by commission action under subsection (5)(A) or (C) of this rule.

4. The department will remove projects from these lists if directed to do so by EPA in accordance with federal law.

5. The department will consider removing projects from these lists at the request of the applicant.

*AUTHORITY: section 644.026, RSMo Supp. 1987. *Original rule filed Dec. 4, 1975, effective Dec. 14, 1975. Rescinded: Filed Oct. 12, 1979, effective July 11, 1980. Readopted: Filed March 11, 1983, effective Oct. 1, 1983. Amended: Filed March 9, 1984, effective Oct. 1, 1984. Amended: Filed March 8, 1985, effective Oct. 1, 1985. Amended: Filed March 10, 1986, effective Oct. 1, 1986. Amended: Filed March 10, 1987, effective Oct. 1, 1987. Amended: Filed March 11, 1988, effective Oct. 1, 1988.*

**Original authority 1972, amended 1973, 1987.*

10 CSR 20-4.020 State Match Grant Program

PURPOSE: This rule sets forth the requirements and process of application for a state grant to match Environmental Protection Agency construction grants for construction of wastewater treatment works and the terms and conditions for receipt of a grant. This rule also clarifies the requirements, the types of facilities funded and the grant amount available for eligible grantees.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) For conventional technology, the state share may be up to twenty-five percent (25%) of the eligible project costs and for innovative alternative technology, the state share may be up to fifteen percent (15%) of eligible project cost.

(2) Eligible applicants are those applicants who have received Environmental Protection Agency (EPA) funding assistance under the EPA construction grants program.

(3) Facilities to be constructed are limited to those that are eligible under the EPA construction grant program and further limited by the commission policy.

(4) Priority will be based upon the priority system for the EPA construction grants as adopted by the commission.

(5) State payments will be processed upon notification from EPA that the federal reimbursement has been made.

(6) Grantees must provide for a thirty (30)-day minimum formal advertising period (the time between the date of the first public publication and the date by which bids must be submitted) for all construction and equipment procurements. Small purchase procurement (40 CFR 31.36(d)(1), effective October 1, 1988) is exempt from this requirement. Solicitations, at a minimum, shall be placed in newspapers of general circulation.

*AUTHORITY: sections 644.026, RSMo Supp. 1987 and 644.101, 644.106, 644.111 and 644.121, RSMo Supp. 1991. *Original rule filed Oct. 12, 1982, effective April 15, 1983. Amended: Filed March 11, 1988, effective Oct. 1, 1988. Amended: Filed Dec. 1, 1988, effective April 15, 1989.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987; 644.101, 644.106 and 644.111, RSMo 1972, amended 1973, 1982, 1987, 1991; and 644.121, RSMo 1972, amended 1973, 1987, 1991.*

10 CSR 20-4.021 State Construction Grant Program

PURPOSE: This rule sets forth the requirements and process of application for a state construction grant for construction of wastewater treatment works and the terms and conditions for receipt of a grant. This rule also clarifies the requirements, the types of facilities eligible for grant funds and the grant amount available for eligible grantees.

(1) Program funding may be up to seventy percent (70%) of the difference between the total amount appropriated by the state legislature from the water pollution control fund and the amount needed for the state match program under 10 CSR 20-4.020. Small rural communities shall receive at least twenty percent (20%) of these funds as required by section 644.117, RSMo. Funds left unobligated within four (4) months of the end of the fiscal year may be reallocated to other programs.

(2) Grant amount is limited to fifty-five percent (55%) of the total eligible construction costs as listed under section (5) of this rule, including engineering expenses during construction. Total grant amount is further limited to five hundred thousand dollars

(\$500,000) per year per grantee for applicants of less than five hundred thousand (500,000) service area population. For eligible applicants of greater than five hundred thousand (500,000) but less than one (1) million service area population, grant amount is limited to fifteen percent (15%) of the total amount allocated for this program or five hundred thousand dollars (\$500,000) whichever is greater. For eligible applicants of greater than one (1) million, grant amount is limited to thirty percent (30%) of the total amount allocated for this program or five hundred thousand dollars (\$500,000) whichever is greater. These limits will not apply to any unobligated funds left after March 1.

(3) Eligible applicants must be a first-class county, public sewer district, municipality or combination of the same.

(4) Grant Requirements.

(A) An engineering report compiled by a professional engineer registered in Missouri shall be submitted to the department. The report shall contain, at a minimum:

1. For new wastewater treatment facilities and single family resident wastewater treatment facilities the report must meet the requirements of 10 CSR 20-8.020;

2. For rehabilitation, the report must contain a description of the problem, a cost analysis and a recommendation; and

3. For new interceptors and pump stations, the report must contain a description of the problem, effect on the existing wastewater treatment facility relevant to meeting existing National Pollutant Discharge Elimination System (NPDES) permit requirements and water quality standards, cost analysis and a recommendation.

(B) Detailed plans and specifications based upon the approved engineering report must be submitted and approved by the department. The plans and specifications must comply with 10 CSR 20-8.020 and 10 CSR 20-8.110–10 CSR 20-8.220.

(C) Provisions must be made for adequate inspection during construction by the grantee.

(D) An application form must be submitted for consideration by the department. The applicant will receive a letter of intent from the department based on this initial application. If the applicant wishes to pursue funding based on the letter of intent, an application kit must be submitted containing an assurance that the grantee has the legal, institutional, managerial and financial capability to insure adequate building, operation, maintenance and replacement of the treatment works throughout the applicant's jurisdiction;

a resolution designating an authorized representative; a plan of operation as required by the department; a proposed construction phase engineering agreement; an assurance with respect to acquisition of real property including easements; a proposed user charge system; and a proposed sewer use ordinance.

(E) A construction permit and an operating permit in accordance with 10 CSR 20-6.010–10 CSR 20-6.060 must be obtained.

(F) Acceptance of a grant constitutes agreement that cost overrun shall be borne by applicant.

(G) No grant will be awarded to an applicant who is in noncompliance with the monitoring or reporting requirements of a valid NPDES permit or who is not properly operating or maintaining an existing system.

(5) All facilities listed in this section are eligible only if associated problems are not caused by inadequate operation and maintenance practices. Facilities to be funded are limited to publicly owned and operated—

(A) New interceptors;

(B) New major pump stations;

(C) New wastewater treatment facilities;

(D) Rehabilitation or upgrading of treatment plants;

(E) Rehabilitation or replacement of existing major pump stations, whichever is most cost effective; and

(F) Replacement of force mains and interceptors causing regular dry weather bypassing or widespread sewer backups.

(6) Priority will be based upon the current priority system for the Environmental Protection Agency wastewater treatment construction grants program as adopted by the commission. However, if a high priority project has not submitted all documents required for a state grant by January 1 of that fiscal year, or has not received departmental approval of all documents required for a state grant by February 15 of that fiscal year, it may be removed in favor of projects on a contingency list that are ready to proceed.

(7) Applications for funding will be received until November 15, prior to the fiscal year for which funding is sought. Applicants unsuccessfully requesting funds during a given fiscal year shall be considered for funding the next fiscal year and need not reapply. If an applicant has not received funds within two (2) years, the applicant must reapply in order to be considered in future fiscal years.

(8) Approval and Payment of Grants.

(A) The applicant shall be notified by the department when the grant is awarded.

(B) Payment under the grant shall be made at the request of the applicant. Payments will be made in four (4) installments as follows:

1. A first installment when not less than twenty-five percent (25%) of the construction of the project is completed;

2. A second installment when not less than fifty percent (50%) of the construction of the project is completed and the plan of operation for the project, if required under subsection (4)(D) of this rule, has been submitted and approved and an operation and maintenance manual, as required by the department, is submitted;

3. A third installment when not less than ninety percent (90%) of the construction of the project is completed and the operation and maintenance manual, if required under paragraph (9)(B)2., has been approved; and

4. A fourth installment when the project is constructed and approved by the department.

(C) Payments shall at no time exceed fifty-five percent (55%) of the eligible project cost incurred at the time payment is made.

(D) Any cost of work completed after the final inspection by the department shall not be considered as part of the eligible project cost.

(E) An audit to verify expenditure of grant funds shall be made after the final payment is made for each approved project.

(9) The commission reserves the right to remove any and all unfunded projects from funding consideration in the event of the catastrophic failure or collapse of a publicly-owned wastewater treatment facility or publicly-owned waste stabilization lagoon where there is imminent threat of contamination of a water system as defined in 10 CSR 60-2.015.

AUTHORITY: sections 644.026, RSMo Supp. 1987, and 644.101, 644.106, 644.111 and 644.121, RSMo Supp. 1991 and 644.116, RSMo 1986. Original rule filed Oct. 12, 1982, effective April 15, 1983. Amended: Filed March 9, 1984, effective Oct. 1, 1984. Amended: Filed March 11, 1988, effective Oct. 1, 1988.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987; 644.101, 644.106 and 644.111, RSMo 1972, amended 1973, 1982, 1987, 1991; 644.116, RSMo 1972, amended 1973, 1982; and 644.121, RSMo 1972, amended 1973, 1987, 1991.*

10 CSR 20-4.022 Industrial Development Program

PURPOSE: This rule sets forth the requirements and process of application for an industrial development grant for construction

of wastewater treatment works and the terms and conditions for receipt of a grant. The rule also clarifies the requirements, the types of facilities eligible for grant funds and the grant amount available for eligible grantees.

(1) Program funding may be up to thirty percent (30%) of the difference between the total amount appropriated by the state legislature from water pollution control fund and the amount needed for the state match program 10 CSR 20-4.020. Small rural communities shall receive at least twenty percent (20%) of these funds as required by section 644.117, RSMo. Funds left unobligated within four (4) months of the end of the fiscal year may be reallocated to other programs.

(2) Grant amount is limited to fifty-five percent (55%) of the total eligible construction costs including engineering expenses during construction.

(3) Eligible applicants must be a first-class county, public sewer district, municipality or combination of the same.

(4) Grant Requirements.

(A) Along with the application form the applicant must submit an engineering report compiled by a professional engineer registered in Missouri, containing a description of the problem, a cost analysis and a recommendation.

(B) The applicant must provide a firm private commitment that if the applicant will provide the capacity the private concern will create or retain full-time permanent jobs.

(C) Provision must be made for adequate inspection during construction by the grantee.

(D) An application form must be submitted for consideration by the department. The applicant will receive a letter of intent from the department based on this initial application. If the applicant wishes to pursue funding based on the letter of intent, an application kit must be submitted containing an assurance that the grantee has the legal, institutional, managerial and financial capability to insure adequate building, operation, maintenance and replacement of the treatment works throughout the applicant's jurisdiction; a resolution designating an authorized representative; detailed plans and specifications based on the approved engineering report; a preliminary plan of operation; an assurance with respect to acquisition of real property including easements; a proposed user charge system; a proposed sewer use ordinance; and a proposed construction phase engineering agreement.

(E) A construction permit and an operation permit in accordance with 10 CSR 20-6.010–10 CSR 20-6.060 must be obtained.

(F) The grant must not assist in the relocation of a business within the state, except in limited circumstances when relocation is within the same labor market. Exceptions may be granted by the director in consultation with the Department of Economic Development.

(G) Acceptance of a grant constitutes agreement that cost overrun shall be borne by applicant.

(H) Other funding sources must be committed prior to obligation of funds. Letters of conditions from other funding agencies will be accepted by the department as commitments. Letters of conditions will be available from the department.

(I) Capacity shall be limited to the industry(ies) from which the commitment was obtained. Cost of any additional capacity will be borne by the grantee.

(J) No grant will be awarded to an applicant who is in noncompliance with the monitoring or reporting requirements of a valid National Pollutant Discharge Elimination System permit or who is not properly operating or maintaining their existing system.

(5) All facilities listed in this section are eligible only if associated problems are not caused by inadequate operation and maintenance practices. Facilities to be funded are limited to publicly owned and operated—

(A) New interceptors;

(B) New pump stations;

(C) New wastewater treatment plants;

(D) Rehabilitation or upgrading of treatment plants;

(E) Rehabilitation or replacement of existing pump stations, whichever is the most cost effective;

(F) Replacement of force mains and interceptors causing dry weather bypassing or widespread sewer backups; and

(G) On-site facilities.

(6) Priority will be based upon a determination by the director in cooperation with a recommendation by the Department of Economic Development concerning which industrial development project would provide the most benefit for Missouri.

(7) Approval and Payment of Grants.

(A) The applicant shall be notified by the Department of Natural Resources when the grant is awarded.

(B) Payments under the grant shall be made at the request of the applicant.

Payments will be made in four (4) installments as follows:

1. A first installment when not less than twenty-five percent (25%) of the construction of the project is completed;

2. A second installment when not less than fifty percent (50%) of the construction of the project is completed;

3. A third installment when not less than ninety percent (90%) of the construction of the project is completed; and

4. A fourth installment when the project is constructed and approved by the department.

(C) Payments shall at no time exceed fifty-five percent (55%) of the eligible project cost incurred at the time payment is made.

(D) Any cost of work completed after the final inspection by the department shall not be considered as part of the eligible project cost.

(E) An audit to verify expenditure of grant funds shall be made after the final payment is made for each approved project.

AUTHORITY: sections 644.026, RSMo Supp. 1987, 644.101, 644.106, 644.111 and 644.121, RSMo Supp. 1991 and 644.116, RSMo 1986. Original rule filed Oct. 12, 1982, effective April 15, 1983. Amended: Filed March 8, 1985, effective Oct. 1, 1985. Amended: Filed March 11, 1988, effective Oct. 1, 1988.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987; 644.101, 644.106 and 644.111, RSMo 1972, amended 1973, 1982, 1987, 1991; 644.116, RSMo 1972, amended 1973, 1982; and 644.121, RSMo 1972, amended 1973, 1987, 1991.*

10 CSR 20-4.023 State Forty Percent Construction Grant Program

PURPOSE: This rule sets forth the requirements and process of application for a state grant for construction of wastewater treatment works and the terms and conditions for receipt of this grant. This rule also clarifies the requirements, the types of facilities eligible for grant funds and the grant amount available for eligible grantees.

(1) Applicability. This rule defines the minimum requirements which apply to all recipients of assistance under the State Forty Percent Grant Program. The recipient must satisfy more stringent requirements, if required to do so by state or local statutes, policies, rules, ordinances or orders.

(2) Grant Amount. With exception of planning and design phase engineering costs, the grant amount is limited to forty percent

(40%) of the eligible project costs or one-third (1/3) of the annual state appropriation for this program, whichever is less. Planning and design phase engineering costs will be forty percent (40%) of the allowance as shown under subsection (6)(B).

(3) Eligible Applicants.

(A) Eligible applicants must be a county, public sewer district, municipality or combination of the same.

(B) Eligible applicants are limited to those applicants which do not qualify for a loan for the total eligible project costs under 10 CSR 20-4.042.

(C) Eligible applicants must have submitted a preliminary project proposal to the Missouri Water and Wastewater Review Committee (MWWRC) and received an invitation from the MWWRC to apply for financial assistance.

(4) Definitions. The definitions of terms for this rule are contained in 10 CSR 20-2.010 and 10 CSR 20-4.040(2)(A)-(S).

(5) General Grant Requirements.

(A) A construction permit and an operating permit must be obtained in accordance with 10 CSR 20-6.010-10 CSR 20-6.060.

(B) Acceptance of a grant constitutes agreement that cost overrun shall be borne by the applicant.

(C) Provisions must be made for adequate inspection during construction by the grantee.

(D) No grant will be awarded to an applicant who is in noncompliance with the monitoring or reporting requirements of a valid National Pollutant Discharge Elimination System (NPDES) permit or who is not properly operating or maintaining an existing system.

(E) Project cost eligibility is limited to those listed in section (6) of this rule.

(6) Classification of Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under programs supported by the Forty Percent Grant Program.

(A) General. It is the policy of the commission that all project costs will be eligible if they meet the following tests:

1. Reasonable and cost effective;
2. Necessary for the construction of an operable wastewater facility including required mitigation; and
3. Resolve water pollution problems in existence prior to the date of grant application.

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

1. An allowance for engineering services and other services incurred in planning and in preparing the design drawings and specifications for the project. An allowance for planning and design will be based on a percentage of the eligible construction, land equipment, materials and supplies cost identified in the bid documents or purchase contracts as determined from Table 1 or 2 (as applicable).

Table 1—Maximum Eligible Amount for Facilities Planning and Design

Construction Cost	Allowance as a Percentage of Construction Cost*
\$ 100,000 or less	14.49
\$ 120,000	14.11
\$ 150,000	13.66
\$ 175,000	13.36
\$ 200,000	13.10
\$ 250,000	12.68
\$ 300,000	12.35
\$ 350,000	12.08
\$ 400,000	11.84
\$ 500,000	11.46
\$ 600,000	11.16
\$ 700,000	10.92
\$ 800,000	10.71
\$ 900,000	10.52
\$ 1,000,000	10.36
\$ 1,200,000	10.09
\$ 1,500,000	9.77
\$ 1,750,000	9.55
\$ 2,000,000	9.37
\$ 2,500,000	9.07
\$ 3,000,000	8.83
\$ 3,500,000	8.63
\$ 4,000,000	8.47
\$ 5,000,000	8.20
\$ 6,000,000	7.98
\$ 7,000,000	7.81
\$ 8,000,000	7.66
\$ 9,000,000	7.52

*Interpolate between values

Table 2—Maximum Eligible Amount Design Only

Construction Cost	Allowance as a Percentage of Construction Cost*
\$ 100,000 or less	8.57
\$ 120,000	8.38
\$ 150,000	8.16
\$ 175,000	8.01
\$ 200,000	7.88
\$ 250,000	7.67
\$ 300,000	7.50
\$ 350,000	7.36
\$ 400,000	7.24

Construction Cost	Allowance as a Percentage of Construction Cost*
\$ 500,000	7.05
\$ 600,000	6.89
\$ 700,000	6.77
\$ 800,000	6.66
\$ 900,000	6.56
\$ 1,000,000	6.43
\$ 1,200,000	6.34
\$ 1,500,000	6.17
\$ 1,750,000	6.05
\$ 2,000,000	5.96
\$ 2,500,000	5.80
\$ 3,000,000	5.67
\$ 3,500,000	5.57
\$ 4,000,000	5.48
\$ 5,000,000	5.33
\$ 6,000,000	5.21
\$ 7,000,000	5.12
\$ 8,000,000	5.04
\$ 9,000,000	4.96

* Interpolate between values

Note: These tables shall not be used to determine the actual compensation for facilities planning or design services. The compensation for facilities planning or design services should be based upon the nature, scope and complexity of the services required by the community.

2. The reasonable cost of services incurred during the building and initial operation phase of the project to ensure that it is built in conformance with the design drawings and specifications. Eligible construction phase and initial operation phase services are limited to—

- A. Office engineering;
- B. Construction surveillance;
- C. Stakeout surveying;
- D. As-built drawings;
- E. Special soils/materials testing;
- F. Operation and maintenance

manual;

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

H. User charge and sewer use ordinance; and

1. Plan of operation;

3. The cost of subagreements for constructing the facilities listed if the associated

problems are not caused by inadequate operation and maintenance practices:

- A. New interceptors;
- B. New pump stations;
- C. New wastewater treatment facilities;
- D. Rehabilitation or upgrading of treatment plants;
- E. Rehabilitation or replacement of existing pump stations whichever is most cost effective;
- F. Replacement of force mains and interceptors causing regular dry weather bypassing or widespread sewer backups;
- G. Collection sewers; and
- H. The cost of sewer rehabilitation, other than normal maintenance costs for reduction of excessive information/inflow (I/I);

4. Change orders and the costs of meritorious contractor claims for increased costs under subagreements as follows:

- A. Within the allowable scope of the project;
- B. Costs of equitable adjustments due to differing site conditions; and
- C. Settlements, arbitration awards and court judgments which resolve contractor claims shall be allowable only to the extent that they are not due to the mismanagement of the recipient;

5. Costs necessary to mitigate only direct, adverse, physical impacts resulting from building of the treatment works;

6. The costs of site screening necessary to comply with environmental studies and facilities plans or necessary to screen adjacent properties;

7. The cost of groundwater monitoring facilities necessary to determine the possibility of groundwater deterioration, depletion or modification resulting from building the project;

8. Equipment, materials and supplies.

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

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

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

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

- (I) Portable standby generators;

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

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

(IV) Replacement parts identified and approved in advance;

9. Costs of royalties for the use of or rights in a patented process or product with the prior approval of the department;

10. Land or easements when used as an integral part of the treatment process;

11. Purchase of private wastewater treatment systems, excluding collector and interceptor sewers, provided the project will upgrade the existing facilities; and

12. Force account work for construction oversight.

(7) Project Selection Process. Priority will be based upon the priority system established in 10 CSR 20-4.010.

(A) The commission shall hold an annual competition for receipt of state grant assistance.

(B) Applicants must submit an application as described in section (8) of this rule on or before November 15 prior to the fiscal year for which state grant assistance is being sought. Unsuccessful applicants requesting funds during a given fiscal year shall be considered for funding the next fiscal year and need not reapply. This deadline may be extended by the commission if inadequate applications are received.

(C) All qualified applications will be rated and placed on the planning list in accordance with 10 CSR 20-4.010(1)(A).

(D) The commission will select the highest rated projects for state grant assistance from state grant funds anticipated to be available during the upcoming fiscal year. However, if a fundable high priority project has not been submitted, approval obtained on all documents required for a state grant and obtained the primary source of funding (sixty percent (60%) local share) within two (2) years of being placed on the fundable list, it shall be removed from the fundable list on November 15 of the second year. All allocated grant funds will be recovered and combined with any available regular grant funds in the next Intended Use Plan.

(8) Application Requirements. Applicants must submit the documents listed in the following subsections (8)(A)–(D) to be considered for inclusion on the priority list. Some

documents may be waived by the department if justified—

(A) An application form;

(B) A project summary which includes:

- 1. The need for the project;
- 2. The project components including maps or drawings showing the project location and layout; and
- 3. A cost estimate including a cost breakdown;

(C) Draft financial capability analysis prepared in accordance with paragraph (9)(B)4. of this rule; and

(D) Proposed project schedule. The following represents the minimum requirements for the project schedule:

- 1. Construction start defined as date of issuance of notice to proceed;
- 2. Construction completion;
- 3. Initiation of operation; and
- 4. Project completion.

(9) Requirements Preceding Bidding Authorization. In addition to the requirements of section (8) of this rule, applicants must submit the documents listed in subsection (9)(A)–(J) and obtain departmental approval prior to award of grant funds.

(A) A facility plan prepared in accordance with section (14) of this rule must be submitted by September 1 of the fiscal year for which funds are being requested.

(B) Resolution identifying the Authorized Representative. Applicants for assistance under the State Forty Percent Grant Program shall provide a resolution by the governing body designating a representative by name authorized to file the application for assistance.

(C) Plans and specifications.

(D) Financial Capability Analysis. The applicant, along with its application, shall submit written certification that the applicant has analyzed the costs and financial impacts of the proposed facilities and, that the applicant has the capability to finance and manage the construction and operation of the facilities. The wastewater facilities' financial information sheet shall be submitted with the certification.

(E) Draft engineering contract as described in section (11).

(F) Draft user charge ordinance as described in section (17).

(G) Draft sewer use ordinance as described in section (17).

(H) Updated Project Schedule, if Required. The following represents the minimum requirements for the project schedule:

- 1. Construction start defined as date of issuance of notice to proceed;
- 2. Construction completion;

3. Initiation of operation; and
4. Project completion.

(I) Certification of Easements and Real Property Acquisition. Recipients of assistance under the state grant program shall have obtained title or option to the property or easements or condemnation proceedings initiated for the project prior to award of a grant.

(J) Other information or documentation deemed necessary by the applicant or the department to ensure the proper expenditure of state funds.

(10) Accounting and Audits. Applicants are required to have an adequate financial management system and audit procedure for the project which provides efficient and effective accountability and control of all property, funds and assets related to the project. The applicant's financial system is subject to state audits to assure fiscal integrity of public funds.

(11) Architectural or Engineering Contracts. The following represents the minimum requirements for the architectural or engineering contracts:

(A) General requirements for subagreements are, that they—

1. Be necessary for and directly related to the accomplishment of the project work;
2. Be in the form of a bilaterally executed written agreement;
3. Be for monetary consideration;
4. Not be in the nature of a grant or gift;
5. State a time frame for performance;
6. State a cost which cannot be exceeded except by amendment; and
7. State provisions for payment; and

(B) The nature, scope and extent of work to be performed during construction should include, but not be limited to, the following:

1. Preparing a plan of operation if required by the department and as defined in subsection (20)(A);
2. Preparing an operation and maintenance manual if required by the department and as defined in subsection (20)(B);
3. Assisting the recipient in bid letting;
4. Assisting the recipient subdivision in reviewing and analyzing construction bids and making recommendations for award; and
5. Inspecting during construction to ensure conformance with the construction contract documents unless waived by the department.

(12) Procurement of Engineering Services. It is the policy of the commission that contracts for architectural, engineering and land surveying services be negotiated on the basis of demonstrated competence, qualifications for

the type of services required and at fair and reasonable prices. The procedures listed in subsections (12)(B) and (C) are contained in sections 8.285–8.291, RSMo.

(A) Use of the Same Architect or Engineer During Construction. If the recipient is satisfied with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for the project and wishes to retain that firm or individual during construction of the project, it may do so without further evaluation of qualifications, provided the recipient selected the firm using at a minimum the procedures outlined in subsections (12)(B) and (C) of this rule.

(B) Whenever a project requiring architectural, engineering or land surveying services is proposed, the owner shall evaluate current statements of qualifications and performance data of prequalified firms on file together with those that may be submitted by other firms regarding the proposed project. In evaluating the qualifications of each firm, the owner shall use the following criteria:

1. The specialized experience and technical competence of the firm with respect to the type of services required;
2. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;
3. The past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules; and
4. The firm's proximity to and familiarity with the area in which the project is located.

(C) Negotiation of a Contract.

1. The recipient shall list three (3) highly qualified firms. The recipient then shall select the firm considered best qualified and capable of performing the desired work and attempt to negotiate a contract for the project with the firm selected.

2. For a basis for negotiations, the recipient shall prepare a written description of the scope of the proposed services.

3. If the recipient is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The owner then shall undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with the firm shall be terminated. The recipient then shall undertake negotiations with the third qualified firm.

4. If the recipient is unable to negotiate a contract with any of the selected firms, the

recipient shall reevaluate the necessary architectural, engineering or land surveying services, including the scope of services and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of subsections (12)(B) and (C).

(13) Public Participation. The public must be allowed an opportunity to exchange ideas with the applicant during project development. Public participation must be preceded by timely distribution of information and must occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action. At a minimum, the recipient must provide an opportunity for public participation, prior to approval of the facility plan and draft user charge ordinance, at a public meeting at which the proposed alternative and the proposed user charge rates are discussed. The recipient shall prepare a transcript, recording or other complete record of the proceeding and submit it to the department and make it available at no more than cost to anyone who requests it. A copy of the record should be available for public review.

(14) Facility Planning. Facility plans or engineering reports must be in accordance with accepted engineering practices, the current Waste Treatment Design Guide, 10 CSR 20-8.

(A) The most reasonable environmentally sound and implementable waste management alternatives must be studied and evaluated. Proposed waste treatment management plans and practices shall provide for the cost-effective technology that can treat wastewater and nonexcessive I/I to meet the applicable NPDES requirements.

(B) An I/I analysis must be included which indicates whether the sewer system is affected by excessive I/I and if so an analysis which determines the cost-effective solution to the excessive I/I.

(C) An estimate of the average user charge including documentation of the basis of the estimate.

(D) An evaluation of the impact of the proposed project on the environment is required.

(15) Design. Design of the project will be in conformance with accepted engineering practices and the current Waste Treatment Design Guide, 10 CSR 20-8. A preliminary design submittal, including the design criteria and facilities layout sheet, may be required at approximately the twenty percent (20%) design stage.

(16) Intermunicipal Agreements. If the project serves two (2) or more public entities, the applicant shall submit executed agreements or contracts between the public entities for the financing, construction and operation of the proposed treatment facilities.

(17) User Charge and Sewer Use Ordinance. Recipients are required to adopt and implement, for the useful life of the treatment works, approved user charge and sewer use ordinances.

(A) The user charge system must be designed to produce adequate revenues required for the operation and maintenance, including a reserve for replacement. Each user charge system must include an adequate financial management system that will accurately account for revenues generated by the system, debt service and expenditures for operation and maintenance based on an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy and administration. The system shall provide for an annual review of charges. A system shall be adopted by all political subdivisions receiving service from the recipient.

(B) The sewer use ordinance shall prohibit any new connections from inflow sources into the treatment works and require that new sewers and connections to the treatment works are properly designed and constructed. The ordinance shall also require that all wastewater introduced into the treatment works not contain toxic or other pollutants in amounts or concentrations that endanger public safety and physical integrity of the treatment works cause, violation of effluent or water quality limitations, preclude the selection of the most cost-effective alternative for wastewater treatment and sludge disposal or inhibit the performance of a pretreatment facility. The ordinance shall require the recipient to notify all potential users of service availability and that all users shall connect to the system within ninety (90) days of notice of service availability.

(C) At ninety percent (90%) construction completion, the final user charge and sewer use ordinances, as approved, shall be implemented.

(18) Specifications. The construction specifications must contain the features listed in subsections (18)(A)–(M).

(A) The project must be advertised for thirty (30) days between the time the notice is published and when bids are opened. The public notice should be published in an area newspaper of general circulation and/or contractors' publications.

(B) In accordance with section 71.140, RSMo, preference shall be given to Missouri products.

(C) Pursuant to section 34.076, RSMo, a preference shall be given to those persons doing business as Missouri firms, corporations or individuals, or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less. In addition, in order for a nondomiciliary bidder to be successful, his/her bid must be that same percentage lower than a domiciliary Missouri bidder's bid as would be required for a Missouri bidder to successfully bid in the nondomiciliary's state. Any bidder domiciled outside the boundaries of Missouri shall submit an audited financial statement as would be required of a Missouri domiciled contractor or bidder on a bid being let in the domiciliary state of that contractor or bidder.

(D) The proposal form must contain a nondiscrimination statement.

(E) Each bidder must furnish a bid guarantee equivalent to five percent (5%) of the bid.

(F) The proposal must fully explain the basis for determining the low bidder and include a statement that the contract will be awarded to the lowest responsive, responsible bidder.

(G) The specifications must state that when manufacturers' names are used they are used to establish a standard and the words or equal, if not stated, are implied.

(H) The specifications must contain a provision for the maximum calendar or work days allowed for completion of the project.

(I) The specifications must allow for representatives of the Department of Natural Resources to have access to the work wherever it is in preparation or progress.

(J) The specifications shall require the contractor to furnish a performance and a payment bond each in an amount at least equal to one hundred percent (100%) of the contract price as security for the faithful performance of his/her contract and for the payment of all persons performing labor on the project and furnishing materials in connection with the project under this contract as set forth in the standard form of performance/payment bond included in the contract documents. The surety on this bond shall be a duly authorized surety company satisfactory to the owner.

(K) State wage determinations must be included in the specifications.

(L) The specifications must include a sales tax exemption clause consistent with the Missouri State Sales Tax Law, section 144.030(15), RSMo.

(M) The specifications must include the following statement: "The owner shall make payment to the contractor in accordance with section 34.057, RSMo."

(19) Bidding Requirements.

(A) Each contract shall be awarded after formal advertising.

(B) Departmental concurrence with contract award must be obtained prior to actual contract award. Recipients shall notify the department in writing of each proposed construction contract which has an aggregate value over twenty-five thousand dollars (\$25,000). The recipient shall notify the department within ten (10) calendar days after the bid opening for each construction subagreement. The notice shall include:

1. Publisher's affidavit of advertising;
2. Tabulation of bids;
3. Low bid and/or proposal the recipient wishes to accept;
4. Recipient's recommendation of award;
5. Any addenda not submitted previously and bidder acknowledgment of all addenda;
6. Copy of the bid bond;
7. One (1) set of as-bid specifications;
8. Missouri domestic products certification if applicable; and
9. Revised financial capability worksheet and certification if bids exceed prebid estimates by more than fifteen percent (15%).

(20) Operation and Maintenance.

(A) Plan of Operation.

1. If required by the department, the recipient of assistance for construction of mechanical facilities must make provision satisfactory to the department for the development of a plan of operation designed to assure that operational efficiency be achieved as quickly as possible. A plan of operation must be submitted by fifty percent (50%) construction completion and approved by ninety percent (90%) construction completion.

2. The recipient will ensure that the schedule of tasks as outlined in the approved plan of operation is implemented and completed in accordance with the schedules and prior to final inspection of the project. Plan of operations must be approved by the official project start-up date.

(B) Operation and Maintenance Manual. The recipient must make provision satisfactory to the department for assuring effective operation and maintenance of the constructed project throughout its design life. If required by the department, recipients of assistance for construction of mechanical facilities must

develop an operation and maintenance. The operation and maintenance manual must be submitted by fifty percent (50%) construction completion and approved by ninety percent (90%) construction completion.

(C) Start-Up Training. At fifty percent (50%) construction, a start-up training proposal (if required) and proposed follow-up services contract must be submitted and approved by ninety percent (90%) construction completion.

(D) Wastewater Operator. The recipient must make provision satisfactory to the department for assuring that qualified wastewater works operating and maintenance personnel are hired in accordance with an approved schedule. Qualified personnel shall be those meeting the requirements established under 10 CSR 20-9.020.

(21) Progress Payments to Contractors.

(A) It is the commission's policy that recipients should make prompt progress payments to prime contractors and prime contractors should make prompt progress payments to subcontractors and suppliers for eligible construction, supplies and equipment costs.

1. For purposes of this section, progress payments are defined as follows:

A. Payments for work in place; and

B. Payments for materials or equipment which have been delivered to the construction site or which are stockpiled in the vicinity of the construction site in accordance with the terms of the contract, when conditional or final acceptance is made by or for the recipient. The recipient shall assure that items for which progress payments have been made are adequately insured and are protected through appropriate security measures.

(B) Appropriate provisions regarding progress payments must be included in each contract and subcontract.

(C) Retention From Progress Payments. The recipient may retain a portion of the amount otherwise due the contractor. The amount the recipient retains shall be in accordance with section 34.057, RSMo.

(22) Approval and Payment of Grants.

(A) The applicant shall be notified by the department when the grant is awarded.

(B) Payment under the grant shall be made at the request of the applicant. A payment equal to forty percent (40%) of the allowance will be made immediately after the grant is awarded and the recipient's reimbursement request is received. Additional payments will be made in four (4) installments as follows:

1. A first installment when not less than twenty-five percent (25%) of the construction

of the project is completed based on the contractor's pay estimates;

2. A second installment when not less than fifty percent (50%) of the construction of the project is completed and the plan of operation for the project and start-up training proposal, if required under subsection (20)(A) and (C) respectively of this rule, have been submitted and approved, and an operation and maintenance manual, as required by the department, is submitted;

3. A third installment when not less than ninety percent (90%) of the project is completed, the operation and maintenance manual if required under subsection (20)(B), has been approved and an enacted sewer use and user charge system have been submitted; and

4. A fourth installment when the project is constructed and approved by the department.

(C) Payments at no time shall exceed forty percent (40%) of the eligible project cost incurred at the time payment is made. Final grant amount will be adjusted downward to forty percent (40%) of actual costs at the time of the final reimbursement.

(23) If at any time during the twenty (20)-year design life of the facility(ies) funded under this rule is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a twenty (20)-year straight-line depreciation. Grant funds to be reimbursed shall become due and payable upon transfer of ownership of the facility(ies).

AUTHORITY: section 644.026, RSMo Supp. 1998. Original rule filed April 2, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed June 24, 1999, effective March 30, 2000.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995.*

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

PURPOSE: This rule defines the department's grant eligibility and a means of administering the state funds appropriated for rural community and sewer district sanitary sewer collection systems by defining rural communities and sewer districts.

(1) Grant Application Requirements.

(A) Applicants must have submitted a preliminary project proposal to the Missouri Water and Wastewater Review Committee (MWWRC) and received an invitation from the MWWRC to apply for financial assistance.

(B) An application for a grant shall be submitted on forms provided by the department. The application shall be supported by the necessary documents and forms from other state and federal grant or lending agencies or private lending agencies to enable the department to establish eligibility for grant funds.

(C) The project for which the grant application is submitted shall comply with appropriate state and local laws, rules and ordinances.

(D) The grant application shall contain the information identified in (1)(C)1.-4. of this rule:

1. The preliminary engineering study for the proposed project including, but not limited to, the following items: development and administration costs; land, structures, right-of-way costs; legal costs; engineering costs; interest costs; equipment costs, contingencies; other costs; total project costs; and other information as required in rule 10 CSR 20-8.110;

2. Information required to determine the cost per contracted connection of the proposed project;

3. The median household income of the residents in the district or community as determined by the latest census; and

4. Information required to determine the ratio of contracted users to potential users.

(2) Eligibility Requirements.

(A) Grants will not exceed fourteen hundred dollars (\$1400) per contracted connection or fifty percent (50%) of the eligible project cost, whichever is less.

(B) No single grant shall exceed one-third (1/3) of that particular year's appropriation or four hundred fifty thousand dollars (\$450,000) whichever is greater.

(C) Grants shall be limited to rural communities, neighborhood improvement districts or sewer districts of less than ten thousand (10,000) population.

(D) Grants shall be limited to construction of new sewage collection systems only. House laterals are not eligible.

(E) No applicant shall receive more than one (1) grant for a sewer collection project in any two (2)-year period.

(F) The ratio of contracted users to potential users must be at least seventy-five percent (75%).

(G) Grants cannot be used in combination with other department administered grants, unless the monthly user charge exceeds twenty dollars (\$20) per month, and only used then to the extent necessary to reduce the monthly charge to twenty dollars (\$20) per month. The monthly user charge calculation under this provision shall include debt retirement if that debt is secured by revenues of the public wastewater or drinking water system, property taxes or other such revenue sources that are directly attributable to the system users.

(3) Grant Priorities.

(A) Priorities for grants awarded under this rule shall be established by the department. Preference will be given to those applicants who are on the forty percent (40%) grant fundable list administered under 10 CSR 20-4.023 or are applying for loans administered under 10 CSR 20-4.042.

(B) The establishment of priorities and determination of relative need will be coordinated with other state and federal grant and lending agencies.

(4) Approval and Payment of Grants.

(A) The applicant shall be notified by the department when the grant application has been approved. Grant award shall be made upon receipt and approval of bid documents and executed contract documents.

(B) Installment payments of the grant shall be made at the request of the applicant and shall be based on expenditures outlined in paragraph (1)(C)1. of this rule. Payments will be made in equal installments as listed in the following paragraphs in this section;

1. A first installment will be made when not less than twenty-five percent (25%) of the construction of the project is completed based on the contractor's pay estimates;

2. A second installment will be made when not less than fifty percent (50%) of the construction of the project is completed based on the contractor's pay estimates;

3. A third installment will be made when not less than seventy-five percent (75%) of the construction of the project is completed based on the contractor's pay estimates; and

4. A fourth installment will be made when the project is completed, and upon submission of a completed statement of work form provided by the department, departmental approval of a statement of project receipts and expenditures and a final inspection by the department.

(C) Any cost of work completed after submission of the statement of work completed form shall not be considered an eligible pro-

ject cost. The grant amount will be reduced, if necessary, to reflect actual final project costs at the time of final payment.

(D) An audit to verify expenditure of grant funds may be made by the department after the completion of each approved project.

(5) If at any time during the twenty (20)-year design life of the facility(ies) funded under this rule is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a twenty (20)-year straight-line depreciation. Grant funds to be reimbursed shall become due and payable upon transfer of ownership of the facility(ies).

*AUTHORITY: section 640.600, RSMo 1994 * Original rule filed Feb. 2, 1983, effective July 1, 1983. Amended: Filed Nov. 27, 1985, effective Feb. 25, 1986. Amended: Filed Aug. 30, 1989, effective Nov. 27, 1989. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed June 24, 1999, effective March 30, 2000.*

**Original authority: 640.600, RSMo 1989.*

10 CSR 20-4.040 State Revolving Fund General Assistance Regulation

PURPOSE: This rule sets forth requirements for the implementation of Title VI of the federal Water Pollution Control Act as amended in 1987, which authorizes the administrator of the Environmental Protection Agency to make capitalization grants to states for financing State Revolving Fund Programs.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Applicability. This rule defines the minimum requirements which apply to all recipients of assistance under the State Revolving Fund (SRF) Program. The recipient must satisfy more stringent requirements, if required to do so by state or local statutes, policies, rules, ordinances or orders.

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

(A) Alternative technologies—Proven wastewater or sludge treatment processes which recycle the wastewater or sludge for productive uses or otherwise significantly reduce surface discharges of wastewater or disposal of sludge in landfills. Specifically alternative technologies include, but are not limited to, land application of effluent and sludge, aquaculture, horticulture and methane production.

(B) BPWTT—Best practicable waste treatment technology.

(C) Collection sewers—Sewers having the primary purpose of collecting wastewater from individual properties.

(D) Combined sewers—Sewers constructed to carry both storm water and sanitary sewage.

(E) Debt service—The costs associated with amortizing loans. These costs include interest charges, penalty charges and repayment of principal.

(F) Director of staff—The director of staff of the Missouri Clean Water Commission.

(G) EI ERA—State Environmental Improvement and Energy Resources Authority.

(H) Excessive I/I—I/I may be considered excessive if the average dry weather flow for the system during high groundwater is greater than one hundred twenty (120) gallons per capita per day (gpcd) or the wet weather flows exceed two hundred seventy-five (275) gpcd or wet weather flows result in chronic operational problems which may include surcharging, backups, bypasses and overflows. Only the portion of the I/I which is cost effective to eliminate instead of transport and treat is excessive.

(I) Infiltration/inflow (I/I)—Groundwater or storm water which enters a sanitary sewer system.

(J) Initiation of operation—The date when the facilities are first capable of being used for their intended purpose.

(K) I/A—Innovative/alternative technologies (see Innovative and Alternative).

(L) Innovative technology—Developed wastewater treatment processes and techniques which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of significant reduction in life cycle cost or significant environmental benefits through the reclaiming and reuse of water, otherwise eliminating the discharge of pollutants, utilizing recycling techniques, such as land treatment, more efficient use of energy and

resources, improved or new methods of waste treatment management for combined municipal and industrial systems or the confined disposal of pollutants so that they will not migrate to cause water or other environmental pollution.

(M) Interceptor sewers—Sewers having the primary purpose of transporting wastewater from collection sewers to a wastewater treatment facility.

(N) Recipient—The recipient of assistance from programs supported by the Water and Wastewater Loan Fund (WWLF) or the Water and Wastewater Revolving Loan Fund (WWRLF).

(O) Staff—Staff of the Missouri Water Pollution Control Program.

(P) State Revolving Fund (SRF)—The financial assistance program authorized by Title VI of the Federal Clean Water Act. In Missouri the State Revolving Fund consists of the WWLF, the WWRLF and those accounts secured by funds from the WWLF and the WWRLF. The State Revolving Fund is subject to the requirements, restrictions and eligibilities placed on the State Revolving Fund by the Federal Water Pollution Control Act as amended in 1987.

(Q) Subagreements—Agreements and contracts entered into by recipients.

(R) WWLF—Water and Wastewater Loan Fund. State fund established by the state treasurer pursuant to section 644.122, RSMo.

(S) WWRLF—Water and Wastewater Revolving Loan Fund. State fund under the WWLF into which repayments are held by the state treasurer and from which new loans may be made.

(3) Project Selection Process. This section delineates the process by which the commission selects projects for receipt of SRF assistance.

(A) The commission shall hold an annual competition for receipt of SRF assistance. This competition will be structured as follows:

1. Applicants must submit an application as described in section (8) of this rule that must be postmarked or received by the department on or before November 15 prior to the fiscal year for which SRF assistance is being sought. Electronically transmitted application shall not be accepted. Unsuccessful applicants requesting funds during a given fiscal year shall be considered for funding the next fiscal year and need not reapply. The department may extend this deadline if sufficient applications are not received to use all of the funds expected to be available. Applications received after the deadline may be placed on a contingency list following

October 1 of the fiscal year for which SRF assistance is sought. The projects may subsequently be considered for funding by the Clean Water Commission (CWC) if the project is ready to proceed during the fiscal year the project appears on the Indended Use Plan (IUP);

2. All qualified applications will be rated and placed on the planning list in accordance with 10 CSR 20-4.010(1)(A);

3. The commission will select the highest rated projects for SRF assistance from SRF funds anticipated to be available during the upcoming fiscal year;

4. The commission may hold a separate competition for projects eligible under the provisions of subsection (23)(C) of this rule or for projects requesting loans with a term of less than three (3) years; and

5. The commission may hold a separate competition for unsewered communities to fund eligible project costs using the point system established under 10 CSR 20-4.010(1)(C).

(B) The commission may direct projects toward specific SRF assistance programs contained in 10 CSR 20-4.041 and 10 CSR 20-4.042. The commission's decisions shall be based upon the amount of SRF assistance funds available, the amount of SRF assistance funds requested, the size of the project, the credit worthiness of the applicant and the applicant's authority to incur long-term debt.

(4) Target Interest Rate (TIR). The TIR for all assistance provided under 10 CSR 20-4.041 shall not be less than thirty percent (30%) of the Twenty-Five Revenue Bond Index published by the Bond Buyers Index of Twenty Bonds rounded to the nearest one-tenth (0.1) of one percent (1%). The department will use the Twenty-Five Revenue Bond Index most recently published prior to the date on which the project assistance is provided. The TIR for all assistance provided under 10 CSR 20-4.042 shall not be less than thirty percent (30%) of the net interest cost of the EIARA bonds or notes issued for this purpose. The TIR shall be established by the Missouri Clean Water Commission in consultation with the department and the EIARA based upon current economic factors, projected fund utilization, deposits in the Wastewater Revolving Loan Fund and actual or anticipated federal capitalization grants. The Clean Water Commission (CWC) shall not undertake project-by-project revisions.

(5) Loan Fees. The department may charge annual loan fees not to exceed one percent (1%) of the outstanding loan balance of each loan provided from the WWLF or the

WWRLF except as provided under section (6). These fees are intended to reimburse the department for the costs of loan origination, loan servicing and administration of the programs implemented under 10 CSR 20-4.040-10 CSR 20-4.050.

(6) Additional Administrative Fees Allowed. Additional administrative fees may be assessed by the department at the time the administration fee is calculated for failure by a recipient to submit approved documents to the department (for example, operation and maintenance manuals, plan of operation, enacted user charge and sewer use ordinances, executed contract documents) in accordance with the time frames provided under the program agreement entered into by the recipient. The additional fee will be an additional one-tenth percent (.1%) per month that the document remains delinquent. The additional fee will be collected only during the year in which the document is not submitted.

(7) General SRF Assistance Requirements. The commission will prioritize potential SRF projects by assigning priority points using the formula contained in 10 CSR 20-4.010(1)(A).

(A) Municipalities, counties, public sewer or water districts, or both, political subdivisions or instrumentalities of the state and combinations of the same are eligible for SRF assistance. The recipient must demonstrate its legal, institutional, managerial and financial capability to ensure adequate operation and maintenance of the wastewater treatment works throughout the recipient's jurisdiction.

(B) Ownership of facilities, equipment and real property purchased under the program with a value in excess of five thousand dollars (\$5000) may be transferred only with written permission of the department. Transfer of ownership to entities not listed in subsection (7)(A) of this rule will require immediate repayment of assistance.

(C) Assistance under this rule cannot be used for portions of a project receiving a federal construction grant under Title II of the federal Clean Water Act.

(D) One (1) year after initiation of operation of the constructed treatment works, the recipient shall certify to the department whether or not the treatment works meet the project performance standards including state operating permit effluent limitations, if applicable. Any statement of noncompliance must be accompanied by a corrective action report containing an analysis of the cause of the project's inability to meet performance standards, and/or state operating permit effluent

limitations, actions necessary to bring it into compliance and a reasonably scheduled date for positive certification of the project. Timely corrective action will be executed by the recipient.

(E) Financial Disclosure. Loan applicants shall provide upon request to the department and the EIARA any detailed financial information about the loan applicant as may be required by the commission, the department, the EIARA or its financial or legal consultants to determine the applicant's eligibility for the leveraged loan program.

(F) For equivalency projects, the recipient and its contractors must comply with all requirements associated with funds provided under the Federal Clean Water Act. Equivalency projects will be so designated in the annual Intended Use Plan developed in accordance with this rule.

(G) No loan agreement will be entered into with an applicant which is not in compliance with the monitoring or reporting requirements of a valid National Pollutant Discharge Elimination System (NPDES) permit or which is not properly operating or maintaining an existing system.

(8) Application Requirements. Applicants must submit a completed application form and any financial information requested by the department to be included on the Intended Use Plan, a planning document prepared by the state. In addition, the documents listed in subsections (8)(A)–(C) must be submitted when requested by the department.

(A) A project summary which includes:

1. The need for the project;
2. The project components, including maps or drawings showing the project location and layout; and
3. A cost estimate including a cost breakdown.

(B) A completed Detailed Financial Information Sheet in the form provided by the department; and

(C) Proposed project schedule.

(9) Facility Planning. All facility plans must be in accordance with accepted engineering practices and the current Waste Treatment Design Guide 10 CSR 20-8. Projects designated in the Intended Use Plan as equivalency projects must meet the requirements established by the Federal Water Pollution Control Act as amended in 1987.

(A) Requirements for all projects are as follows:

1. The most reasonable environmentally sound and implementable waste management alternatives must be studied and evaluated. Proposed waste treatment management plans

and practices shall provide for the most cost-effective technology that can treat wastewater and nonexcessive I/I to meet the current 10 CSR 20-7.015 Effluent Regulations, 10 CSR 20-7.031 Water Quality Standards. Equivalency projects must also provide for BPWTT. The requirement for cost-effectiveness may be waived by the department for nonequivalency projects upon a showing that the project provides environmentally preferable benefits, for example sludge utilization, water reuse or reduction;

2. An estimate of the average user charge including documentation of the basis of the estimate;

3. An assessment of the environmental conditions and impact of the proposed project on the environment is required. The environmental review process and public notice requirements are contained in 10 CSR 20-4.050. Additional public participation requirements are outlined in subsections (14)(A) and (B);

(B) Requirements applicable to equivalency projects only are as follows:

1. Innovative and alternative wastewater treatment processes and techniques must be adequately studied and evaluated by the recipient;

2. An I/I analysis which indicates whether the sewer system is affected by excessive I/I must be performed and, if so, an analysis, which determines the cost-effective solution to the excessive I/I must be included;

3. A description of recreational and open space opportunities in the planning area must be included;

4. The project shall be consistent with the approved elements of any applicable water quality management plan under sections 205(j), 208, 303(e), 319 and 320 of the Federal Water Pollution Control Act as amended in 1987;

5. Projects over ten (10) million dollars must provide a multidisciplinary engineering review of plans and specifications as required by section 218 of the Federal Water Pollution Control Act as amended in 1987. The department may require a value engineering study for projects under ten (10) million dollars; and

6. An assessment of the environmental conditions and impact of the proposed project on the environment is required. The environmental review process and public notice requirements are contained in 10 CSR 20-4.050. Additional public participation requirements are outlined in subsections (14)(A) and (B). This requirement was deleted from paragraph (9)(A)3. and moved to paragraph (9)(B)6. It now applies to fewer projects than it did before.

(10) Additional Preclosing Requirements.

(A) Submittal Deadline. All documents necessary to provide assistance must be submitted to the department in sufficient time to allow adequate time for review and must be approved sixty (60) days prior to the pool closing date established by the department. The commission has the authority to extend deadlines if justified.

(B) Final Document Submittal. Documents listed in paragraphs (10)(B)1.–6. must be submitted and approved by the department:

1. Resolution identifying the authorized representative by name. Applicants for assistance under the SRF shall provide a resolution by the governing body designating a representative authorized to file the application for assistance, reimbursement requests and act in behalf of the applicant in all matters related to the project;

2. Plans and specifications certified by a registered professional engineer licensed in Missouri;

3. Draft engineering contract as described in section (12);

4. Draft user charge ordinance as described in section (17);

5. Draft sewer use ordinance as described in section (17);

6. Proposed project schedule. The following represents the minimum requirements for the project schedule:

A. Construction start defined as date of issuance of notice to proceed;

B. Construction completion;

C. Initiation of operation; and

D. Project completion;

7. Certification of easements and real property acquisition. Recipients of assistance under the SRF shall have obtained title or option to the property or easements or condemnation proceedings initiated for the project prior to award of a loan; and

8. Other information or documentation deemed necessary by the applicant or the department to ensure the proper expenditure of state funds.

(11) Accounting and Audits. Applicants are required to have a dedicated source for repayment of any loans and an adequate financial management system and audit procedure for the project which provides efficient and effective accountability and control of all property, funds and assets related to the project. The applicant's financial system is subject to state or federal audits to assure fiscal integrity of public funds.

(A) Each recipient is expected to have an adequate accounting system for the project which provides efficient and effective

accountability and control of all property, funds and assets.

1. The recipient is responsible for maintaining a financial management system which will adequately provide for an accurate, current and complete disclosure of the financial results of each SRF project. Accounting for project funds will be in accordance with generally accepted government accounting principles and practices, consistently applied, regardless of the source of funds.

2. An acceptable accounting system includes books and records showing all financial transactions related to the construction project. The system must document all receipt and disbursement transactions. It also must group them by type of account (for example, asset, revenue, expense, etc.) and by individual expense account (for example, personnel salaries and wages, subcontract costs, etc.).

A. The recipient shall maintain books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly the amount, receipt and disposition by the recipient for all assistance received for the project and the total costs of the project of whatever nature incurred for the performance of the project for which the assistance was awarded. Some of the minimum standards for an adequate accounting system are—

(I) The accounting system should be on a double entry basis with a general ledger in which all transactions are recorded in detail or in summary from subordinate accounts;

(II) Recording of transactions pertaining to the construction project should be all inclusive, timely, verifiable and supported by documentation;

(III) The system must disclose the receipt and use of all funds received in support of the project;

(IV) Responsibility for all project funds must be placed with either a project manager or trust agent;

(V) Responsibility for accounting and control must be segregated from project operations. The accounting system and related procedures should be documented for consistent application;

(VI) The accrual basis of accounting is strongly recommended for construction projects as it provides an effective measure of costs and expenditures;

(VII) Inventories of property and equipment should be maintained in subordinate records controlled by the general ledger and should be verified by physical inventory at least biennially;

(VIII) The accounting system must identify all project costs and differentiate between eligible and ineligible costs;

(IX) Accounts should be set up in a way to identify each organizational unit, function or task providing services to the construction project;

(X) An important project management objective of the system is the derivation of information regarding actual versus budgeted costs by project task and performing organization; and

(XI) Financial reports should be prepared monthly to provide project managers with a timely, accurate status of the construction project and costs incurred.

(B) Audits. The recipient must comply with the provisions of *2OMB Circular A-128* governing the audit of state and local government.

(12) Architectural or Engineering Contracts. The following represents the minimum requirements for the architectural or engineering contracts:

(A) General Requirements for Subagreements.

1. Be necessary for and directly related to the accomplishment of the project work.

2. Be a lump sum or cost plus fixed fee contract in the form of a bilaterally executed written agreement.

3. Be for monetary consideration.

4. Not be in the nature of a grant or gift.

5. State a time frame for performance.

6. State a cost which cannot be exceeded except by amendment.

7. State provisions for payment; and

(B) The nature, scope and extent of work to be performed during construction should include, but not be limited to, the following:

1. Preparing a plan of operation if required by the department and as defined in subsection (24)(A);

2. Preparing an operation and maintenance manual if required by the department and as defined in subsection (24)(B);

3. Assisting the recipient in bid letting;

4. Assisting the recipient subdivision in reviewing and analyzing construction bids and making recommendations for award;

5. Inspecting during construction to ensure conformance with the construction contract documents unless waived by the department; and

6. Assisting with facility operation for purposes of one (1)-year certification.

(C) Executed Engineering Contract Submittal. The final approved executed engineering contract must be submitted prior to the first reimbursement request.

(13) Procurement of Engineering Services. It is the policy of the commission that contracts for architectural, engineering and land surveying services be negotiated on the basis of demonstrated competence, qualifications for the type of services required and at fair and reasonable prices. The procedures listed in subsections (13)(B) and (C) are contained in sections 8.285–8.291, RSMo. These procurement requirements apply unless the applicant elects to use the design/build option described in section (20).

(A) Use of the Same Architect or Engineer During Construction. If the recipient is satisfied with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for the project and wishes to retain that firm or individual during construction of the project, it may do so without further public notice and evaluation of qualifications, provided the recipient selected the firm using, at a minimum, the procedures outlined in subsections (13)(B) and (C) of this rule.

(B) Whenever a project requiring architectural, engineering or land surveying services is proposed, the recipient shall evaluate current statements of qualifications and performance data of prequalified firms on file together with those that may be submitted by other firms regarding the proposed project. In evaluating the qualifications of each firm, the recipient shall use the following criteria:

1. The specialized experience and technical competence of the firm with respect to the type of services required;

2. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

3. The past record of performance of the firm with respect to those factors as control of costs, quality of work and ability to meet schedules; and

4. The firm's proximity to and familiarity with the area in which the project is located.

(C) Negotiation of a Contract.

1. The recipient shall list three (3) highly qualified firms. The recipient shall then select the firm considered best qualified and capable of performing the desired work and attempt to negotiate a contract for the project with the firm selected.

2. For a basis of negotiations the recipient shall prepare a written description of the scope of the proposed services.

3. If the recipient is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The recipient shall then undertake negoti-

ations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with the firm shall be terminated. The recipient shall then undertake negotiations with the third qualified firm.

4. If the recipient is unable to negotiate a contract with any of the selected firms, the recipient shall reevaluate the necessary architectural, engineering or land surveying services, including the scope of services and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of subsections (13)(B) and (C).

(14) Public Participation. The public must be allowed an opportunity to exchange ideas with the applicant during project development. Public participation must be preceded by timely distribution of information and must occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action. At a minimum, the recipient must provide the opportunities for public participation described in the following:

(A) A public meeting shall be conducted to discuss the alternative engineering solutions;

(B) Prior to approval of the draft user charge ordinance, a public meeting shall be conducted to specifically address the proposed user charge rates. Public notice of the meeting should be published at least thirty (30) days prior to the meeting date. The recipient shall prepare a transcript, recording or other complete record of the proceeding and submit it to the department and make it available at no more than cost to anyone who requests it. A copy of the record should be available for public review; and

(C) Public participation requirements for environmental review are contained in 10 CSR 20-4.050(2)(B)2.

(15) Design. Design of the project will be in conformance with accepted engineering practices and the current *Waste Treatment Design Guide*, 10 CSR 20-8. A preliminary design submittal, including the design criteria and facilities layout sheet, may be required at approximately the twenty percent (20%) design stage.

(16) Intermunicipal Agreements. Prior to closing, if the project serves two (2) or more public entities, the applicant shall submit executed agreements or contracts between the public entities for the financing, construction and operation of the proposed treatment facilities. At a minimum, the agreement or contract will include:

(A) The operation and maintenance responsibilities of each party upon which the costs are allocated;

(B) The formula by which the costs are allocated; and

(C) The manner in which the costs are allocated.

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

(A) The user charge system must be designed to produce adequate revenues required for the operation and maintenance, including a reserve for equipment replacement. A one hundred ten percent (110%) debt service reserve may be required. It shall be proportional and based upon actual use. Each user charge system must include an adequate financial management system that will accurately account for revenues generated by the system, debt service and loan fee costs and expenditures for operation and maintenance, including replacement based on an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy and administration. The user charge system shall provide that the costs of operation and maintenance for all flow not directly attributable to users be distributed equally among the users. The system shall provide for an annual review of charges. A user charge system shall be adopted by all political subdivisions receiving service from the recipient.

(B) The sewer-use ordinance shall prohibit any new connections from inflow sources into the treatment works and require that new sewers and connections to the treatment works are properly designed and constructed. The ordinance also shall require that all wastewater introduced into the treatment works not contain toxic or other pollutants in amounts or concentrations that endanger public safety and physical integrity of the treatment works; cause violation of effluent or water quality limitations; preclude the selection of the most cost-effective alternative for wastewater treatment and sludge disposal; or inhibit the performance of a pretreatment facility. The ordinance shall require all users to connect to the system within ninety (90) days of service availability.

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

(A) Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product or service to be procured. The description, in competitive procurements, shall not contain features which unduly restrict competition unless the features are necessary to test or demonstrate a specific thing or to provide for interchangeability of parts and equipment. The description shall include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use;

(B) The recipient shall avoid the use of detailed product specifications if at all possible;

(C) When in the judgment of the recipient it is impractical or uneconomical to make a clear and accurate description of the technical requirements, recipients may use a brand name or equal description as a means to define the performance or other salient requirements of a procurement. The recipient need not establish the existence of any source other than the named brand. Recipients must state clearly in the specification the salient requirements of the named brand which must be met by offerers;

(D) Sole Source Restriction. A specification shall not require the use of structures, materials, equipment or processes which are known to be available only from a sole source, unless the department determines that the recipient's engineer has adequately justified in writing to the department that the proposed use meets the particular project's minimum needs;

(E) Experience Clause Restriction. The general use of experience clauses requiring equipment manufacturers to have a record of satisfactory operation for a specified period of time or of bonds or deposits to guarantee replacement in the event of failure is restricted to special cases where the recipient's engineer adequately justifies any such requirement in writing. Where this justification has been made, submission of a bond or deposit shall be permitted instead of a specified experience period. The period of time for which the bond or deposit is required shall not exceed the experience period specified;

(F) Domestic Products Procurement Law. In accordance with sections 34.350–34.359, RSMo, the bid documents shall require all manufactured goods or commodities used or supplied in the performance of any contract

or subcontract awarded on a loan project to be manufactured, assembled or produced in the United States, unless obtaining American-made products would increase the cost of the contract by more than ten percent (10%);

(G) Bonding. On construction contracts exceeding one hundred thousand dollars (\$100,000), the bid documents shall require each bidder to furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition, the bid documents must require the successful bidder to furnish performance and payment bonds, each of which shall be in an amount not less than one hundred percent (100%) of the contract price;

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

(I) Contractors for equivalency projects must comply with the Davis-Bacon Act (40 U.S.C. 276a-276a-7). The current Davis-Bacon wage rate from the United States Department of Labor must be incorporated in the bid documents;

(J) Small, Minority, Women's and Labor Surplus Area Businesses. The recipient shall take affirmative steps and the bid documents shall require the bidders to take affirmative steps to assure that small, minority and women's businesses are used when possible as sources of supplies, construction and services. Affirmative steps shall include the following:

1. Including qualified small, minority and women's businesses on solicitation lists;
2. Assuring that small, minority and women's businesses are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority and women's businesses;
4. Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority and women's businesses;
5. Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the United States Department of Commerce as appropriate; and
6. If the contractor awards subagreements, requiring the subcontractor to take the affirmative steps in paragraphs (18)(J)1.-5. of this rule;

(K) Debarment/Suspension. The recipient agrees to deny participation in services, supplies or equipment to be procured for this project to any debarred or suspended firms or

affiliates in accordance with Executive Order 12549. The recipient acknowledges that doing business with any party listed on the List of Debarred, Suspended or Voluntarily Excluded Persons may result in disallowance of project costs under the assistance agreement;

(L) Right of entry to the project site must be provided for representatives of the Missouri Department of Natural Resources, Clean Water Commission and the EI ERA so they may have access to the work wherever it is in preparation or progress. Proper facilities must be provided for access and inspections; and

(M) The specifications must include the following statement: "The owner shall make payment to the contractor in accordance with section 34.057, RSMo."

(19) Construction Equipment and Supplies Procurement. This section describes the minimum procurement requirements which the recipient must use under the SRF program unless the applicant elects to use the design/build option described in section (20).

(A) Small Purchases. A small purchase is the procurement of materials, supplies and services when the aggregate amount involved in any one (1) transaction does not exceed twenty-five thousand dollars (\$25,000). The small purchase limitation of twenty-five thousand dollars (\$25,000) applies to the aggregate total of an order, including all estimated handling and freight charges, overhead and profit to be paid under the order. In arriving at the aggregate amount involved in any one (1) transaction, all items which should properly be grouped together must be included. Department approval and a minimum of three (3) quotes must be obtained prior to purchase.

(B) Bidding Requirements. This subsection applies to procurement of construction equipment, supplies and construction services in excess of twenty-five thousand dollars (\$25,000) awarded by the recipient for any project. No contract shall be awarded until the department has approved the formal advertising and bidding.

1. Formal advertising.

A. Adequate public notice. The recipient will cause adequate notice to be given of the solicitation by publication in newspapers of general circulation beyond the recipient's locality (preferably statewide), construction trade journals or plan rooms, inviting bids on the project work and stating the method by which bidding documents may be obtained or examined.

B. Adequate time for preparing bids. A minimum of thirty (30) days shall be

allowed between the date when public notice, publication, insertion or document available in a plan room is first published or provided and the date by which bids must be submitted. Bidding documents shall be available to prospective bidders from the date when the notice is first published or provided.

2. Bid document requirements and procedure.

A. The recipient shall prepare a reasonable number of bidding documents (invitations for bids) and shall furnish them upon request on a first-come, first-served basis. The recipient shall maintain a complete set of bidding documents and shall make them available for inspection and copying by any party. The bidding documents shall include, at a minimum:

(I) A completed statement of the work to be performed or equipment to be supplied and the required completion schedule;

(II) The terms and conditions of the contract to be awarded;

(III) A clear explanation of the method of bidding and the method of evaluation of bid prices and the basis and method for award of the contract or rejection of all bids;

(IV) Responsibility requirements and criteria which will be employed in evaluating bidders;

(V) The recipient shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening;

(VI) If a recipient desires to amend any part of the bidding documents during the period when bids are being prepared, addenda shall be communicated in writing to all firms which have obtained bidding documents in time to be considered before the bid opening time. All addenda must be approved by the department prior to award of the contract;

(VII) A firm which has submitted a bid shall be allowed to modify or withdraw its bid before the time of bid opening;

(VIII) The recipient shall provide for a public opening of bids at the place, date and time announced in the bidding documents. Bids received after the announced opening time shall be returned unopened;

(IX) Award shall be to the lowest, responsive, responsible bidder.

(a) After bids are opened, the recipient shall evaluate them in accordance with the methods and criteria set forth in the bidding documents.

(b) The recipient shall award contracts only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a

proposed contract. A responsible contractor is one that has financial resources, technical qualifications, experience, organization and facilities adequate to carry out the contract or a demonstrated ability to obtain these. The recipient may reserve the right to reject all bids. Unless all bids are rejected for good cause, award shall be made to the low, responsive, responsible bidder, the recipient shall have established protest provisions in the specifications. These provisions shall not include the department as a participant in the protest procedures.

(c) If the recipient intends to make the award to a firm which did not submit the lowest bid, the recipient shall prepare a written statement before any award, explaining why each lower bidder was deemed nonresponsive or nonresponsive and shall retain the statements in its files.

(d) The recipient shall not reject a bid as nonresponsive for failure to list or otherwise indicate the selection of subcontractor(s) or equipment unless the recipient has clearly stated in the solicitation documents that the failure to list shall render a bid nonresponsive and shall cause rejection of a bid;

(X) The recipient is encouraged though not required to use the model specification clauses developed by the department; and

(XI) Departmental concurrence with contract award must be obtained prior to actual contract award. Recipients shall notify the department in writing of each proposed construction contract which has an aggregate value over twenty-five thousand dollars (\$25,000). The recipient shall notify the department within ten (10) calendar days after the bid opening for each construction subagreement. The notice shall include:

- (a) Proof of advertising;
- (b) Tabulation of bids;
- (c) The bid proposal from the bidder that the recipient wishes to accept, including justification if the recommended successful bidder is not also the lowest bidder;
- (d) Recommendation of award;
- (e) Any addenda not submitted previously and bidder acknowledgment of all addenda;
- (f) Copy of the bid bond;
- (g) One (1) set of as-bid specifications;
- (h) Suspension/Debarment Certification;
- (i) Revised financial capability worksheet and certification if bids exceed prebid estimates by more than fifteen percent (15%);

(j) MBE/WBE Worksheet;

(k) Recipient's statement that proposed contractor(s) positive efforts, MBE/WBE utilization, or both, have been reviewed and meet regulatory requirements;

(l) Site certification, if not previously submitted; and

(m) For equivalency projects, Certification of Nonsegregated Facilities.

(20) Design Build Projects. Applicants may elect to use the design/build method of procuring design and construction services in lieu of the procurement methods described in section (13) of this rule.

(A) Additional Application Requirements. In addition to the application requirements listed in sections (9) and (10) of this rule, the applicant must provide the department with the documents listed in the following:

1. A legal opinion of the applicant's counsel stating that the design/build procurement method is not in violation of any state or local statutes, charters, ordinances or rules pertaining to the applicant; and

2. A bid package that is sufficiently detailed to ensure that the bids received for the design/build work are complete, accurate, comparable and will result in the most cost-effective operable facility which meets the design requirements of 10 CSR 20-8. The prebid package shall contain, at a minimum, the clauses discussed in subsections (18)(F)–(I) of this rule.

(B) Bidding Procedures. Bidding shall be conducted in accordance with the procedures described in subsection (19)(B) of this rule.

(C) Contract Type. Design/build contracts shall be lump sum contracts for the cost associated with design and construction. No increases to contract price for design and construction services shall be permitted. Recipients are encouraged to incorporate facility operations into the contract. When included in the contract, the cost of operations for an established time period may be included in the criteria for evaluating bids and selecting the lowest, responsible, responsive bidder.

(D) Review and Oversight. The recipient shall procure engineering services to oversee the design work performed by the design/build contractor and to provide resident inspection of construction. The department may require the recipient to submit plans, specifications and documentation during design and construction as necessary to ensure that the facility meets state standards for design and construction.

(E) Department Approvals and Permits. Prior to construction start, the recipient must obtain approval of the construction plans and

specifications and obtain a construction permit from the department.

(21) Changes in Contract Price or Time. The contract price or time may be changed only by a change order. The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by the methods set forth in the following:

(A) Unit Prices.

1. Original bid items. Unit prices previously approved are acceptable for pricing changes of original bid items. However, when changes in quantities exceed fifteen percent (15%) of the original bid quantity and the total dollar change of that bid item is greater than twenty-five thousand dollars (\$25,000), the recipient shall review the unit price to determine if a new unit price should be negotiated.

2. New items. Unit prices of new items shall be negotiated;

(B) A lump sum to be negotiated; and

(C) Cost Reimbursement. The actual cost for labor, direct overhead, materials, supplies, equipment and other services necessary to complete the work plus an amount to cover the cost of general overhead and profit.

(22) Progress Payments to Contractors.

(A) It is the commission's policy that recipients should make prompt progress payments to prime contractors and prime contractors should make prompt progress payments to subcontractors and suppliers for eligible construction, supplies and equipment costs.

1. For purposes of this section, progress payments are defined as follows:

A. Payments for work in place; and

B. Payments for materials or equipment which have been delivered to the construction site or which are stockpiled in the vicinity of the construction site in accordance with the terms of the contract, when conditional or final acceptance is made by or for the recipient. The recipient shall assure that items for which progress payments have been made are adequately insured and are protected through appropriate security measures.

(B) Appropriate provisions regarding progress payments must be included in each contract and subcontract.

(C) Retention from Progress Payments. The recipient may retain a portion of the amount otherwise due the contractor. The amount the recipient retains shall be in accordance with section 34.057, RSMo.

(23) Classification of Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under programs supported by the SRF.

(A) General. All project costs will be eligible if they meet the following tests:

1. Reasonable and cost effective;
2. Necessary for the construction of an operable wastewater facility including required mitigation; and
3. Meet the eligibility limitations of the Federal Water Quality Act of 1987.

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

1. Engineering services and other services incurred in planning and in preparing the design drawings and specifications for the project. These services and their related expenses can be reimbursed based on actual invoices to be submitted after loan closing or by means of an allowance. For invoice reimbursement, the department must have a copy of the executed engineering contract for planning and design of the project. Allowance reimbursement for these services will be based on a percentage of the total eligible construction contract amount at bid opening plus land, equipment, materials and supplies identified or referenced in the approved facility plan, Finding of No Significant Impact or Categorical Exclusion as determined from Table 1 or 2 (as applicable). For phased or segmented projects, incremental allowance calculations and corresponding reimbursements may be made.

Table 1—Maximum Eligible Amount for Facilities Planning and Design

Construction Cost	Allowance as a Percentage of Construction Cost*
\$ 100,000 or less	14.49
\$ 120,000	14.11
\$ 150,000	13.66
\$ 175,000	13.36
\$ 200,000	13.10
\$ 250,000	12.68
\$ 300,000	12.35
\$ 350,000	12.08

Construction Cost	Allowance as a Percentage of Construction Cost*
\$ 400,000	11.84
\$ 500,000	11.46
\$ 600,000	11.16
\$ 700,000	10.92
\$ 800,000	10.71
\$ 900,000	10.52
\$ 1,000,000	10.36
\$ 1,200,000	10.09
\$ 1,500,000	9.77
\$ 1,750,000	9.55
\$ 2,000,000	9.37
\$ 2,500,000	9.07
\$ 3,000,000	8.83
\$ 3,500,000	8.63
\$ 4,000,000	8.47
\$ 5,000,000	8.20
\$ 6,000,000	7.98
\$ 7,000,000	7.81
\$ 8,000,000	7.66
\$ 9,000,000	7.52
\$ 10,000,000	7.41
\$ 12,000,000	7.22
\$ 15,000,000	6.99
\$ 17,500,000	6.83
\$ 20,000,000	6.70
\$ 25,000,000	6.48
\$ 30,000,000	6.31
\$ 35,000,000	6.17
\$ 40,000,000	6.06
\$ 50,000,000	5.86
\$ 60,000,000	5.71
\$ 70,000,000	5.58
\$ 80,000,000	5.47
\$ 90,000,000	5.38
\$ 100,000,000	5.30
\$ 120,000,000	5.16
\$ 150,000,000	4.99
\$ 175,000,000	4.88
\$ 200,000,000	4.79

*Interpolate between values

Table 2—Maximum Eligible Amount Design Only

Construction Cost	Allowance as a Percentage of Construction Cost*
\$ 100,000 or less	8.57
\$ 120,000	8.38
\$ 150,000	8.16
\$ 175,000	8.01
\$ 200,000	7.88
\$ 250,000	7.67
\$ 300,000	7.50
\$ 350,000	7.36
\$ 400,000	7.24
\$ 500,000	7.05
\$ 600,000	6.89
\$ 700,000	6.77
\$ 800,000	6.66
\$ 900,000	6.56
\$ 1,000,000	6.43
\$ 1,200,000	6.34
\$ 1,500,000	6.17
\$ 1,750,000	6.05
\$ 2,000,000	5.96
\$ 2,500,000	5.80
\$ 3,000,000	5.67
\$ 3,500,000	5.57
\$ 4,000,000	5.48
\$ 5,000,000	5.33
\$ 6,000,000	5.21
\$ 7,000,000	5.12
\$ 8,000,000	5.04
\$ 9,000,000	4.96
\$ 10,000,000	4.90
\$ 12,000,000	4.79
\$ 15,000,000	4.67
\$ 17,500,000	4.58
\$ 20,000,000	4.51
\$ 25,000,000	4.39
\$ 30,000,000	4.29
\$ 35,000,000	4.21
\$ 40,000,000	4.14
\$ 50,000,000	4.03
\$ 60,000,000	3.94
\$ 70,000,000	3.87
\$ 80,000,000	3.81
\$ 90,000,000	3.75
\$ 100,000,000	3.71
\$ 120,000,000	3.63
\$ 150,000,000	3.53
\$ 175,000,000	3.46
\$ 200,000,000	3.41

* Interpolate between values

Note: These tables shall not be used to determine the compensation for facilities planning or design services. The compensation for facilities planning or design services should be based upon the nature, scope and

complexity of the services required by the community;

2. The cost of subagreements for building those portions of the project which are for treatment of wastewater, correction of excessive I/I or for new interceptor sewers;

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

- A. Office engineering;
- B. Construction surveillance;
- C. Stakeout surveying;
- D. As-built drawings;
- E. Special soils/materials testing;
- F. Operation and maintenance

manual;

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

H. User charge and sewer-use ordinance; and

- I. Plan of operation;

4. Demolition costs. The reasonable and necessary cost of demolishing publicly owned WWTF's which are no longer utilized for wastewater collection, transportation or treatment purposes. Generally, these costs will be limited to the demolition and disposal of the structures, final grading and seeding of the site;

5. Change orders and the costs of meritorious contractor claims for increased costs under subagreements as follows:

A. Within the allowable scope of the project;

B. Costs of equitable adjustments due to differing site conditions; and

C. Settlements, arbitration awards and court judgments which resolve contractor claims shall be allowable only to the extent that they are not due to the mismanagement of the recipient;

6. Costs necessary to mitigate only direct, adverse, physical impacts resulting from building of the treatment works;

7. The costs of site screening necessary to comply with environmental studies and facilities' plans or necessary to screen adjacent properties;

8. The cost of groundwater monitoring facilities necessary to determine the possibility of groundwater deterioration, depletion or modification resulting from building the project;

9. Equipment, materials and supplies.

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

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

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

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

(I) Portable standby generators;

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

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

(IV) Replacement parts identified and approved in advance;

10. Costs of royalties for the use of or rights in a patented process or product with the prior approval of the department;

11. Land or easements when used as an integral part of the treatment process. For equivalency projects, land must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended. Certification by the recipient of compliance under this Act is required;

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

13. Purchase of a private wastewater systems, provided the project will eliminate or upgrade the existing facilities;

14. Force account work for construction oversight and engineering planning and design. If force account is used for planning

and design, all engineering services during construction must be provided through force account;

15. The cost of preparing an environmental impact statement if required under 10 CSR 20-4.050;

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

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

18. Debt service reserve deposits.

(C) Governor's Reserve (Equivalency Funds). The federal Clean Water Act has provided the commission with the authority to make recommendations to the governor to allocate up to twenty percent (20%) of the WWLF to use for other types of wastewater facilities not listed in paragraph (23)(B)2. of this rule. These facilities include:

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

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

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

2. Correction of combined sewer overflows; and

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

(D) Noneligible costs include, but are not limited to:

1. The cost of ordinary site and building maintenance equipment such as lawnmowers and snowblowers;

2. The cost of general purpose vehicles for the transportation of the recipient's employees;

3. Costs allowable in paragraph (23)(B)11. that are in excess of just compensation based on the appraised value or amount determined in condemnation;

4. Ordinary operating expenses of the recipient including salaries and expenses of elected and appointed officials, preparation of routine financial reports and studies, and the state operating permit fees or other such permit fees necessary for the normal operation of the constructed facility;

5. Preparation of applications and permits required by federal, state or local regulations or procedures;

6. Administrative, engineering and legal activities associated with the establishment of special departments, agencies, commissions,

regions, districts or other units of government;

7. Personal injury compensation or damages arising out of the project;

8. Fines and penalties due to violations of, or failure to comply with, federal, state or local laws, regulations or procedures;

9. Costs outside the scope of the approved project;

10. Costs for which grant or loan payment have been or will be received from another state or federal agency;

11. Force account work except that listed in paragraph (23)(B)14.; and

12. Costs associated with acquisition of easements and land except that listed in paragraph (23)(B)11., unless and until Congress determines otherwise.

(24) Operation and Maintenance.

(A) Plan of Operation.

1. If required by the department, the recipient of assistance for construction of mechanical facilities must make provision satisfactory to the department for the development of a plan of operation designed to assure operational efficiency be achieved as quickly as possible. A plan of operation must be submitted by fifty percent (50%) construction completion and approved by ninety percent (90%) construction completion.

2. The recipient will ensure that the schedule of tasks as outlined in the approved plan of operation is implemented and completed in accordance with the schedules and prior to final inspection of the project. Plan of operations must be approved by the official project start-up date.

(B) Operation and Maintenance Manual. The recipient must make provision satisfactory to the department for assuring effective operation and maintenance of the constructed project throughout its design life. If required by the department, recipients of assistance for construction of mechanical facilities must develop an operation and maintenance manual in accordance with the following paragraphs:

1. A draft operation and maintenance manual must be submitted by fifty percent (50%) construction completion;

2. The recipient must make provision satisfactory to the department to develop for approval an operation and maintenance manual in accordance with departmental guidelines; and

3. At ninety percent (90%) construction, the final operation and maintenance manual must be approved.

(C) Start-Up Training. At fifty percent (50%) construction completion, a start-up training proposal (if required) and proposed

follow-up services contract must be submitted. This contract must be approved by ninety percent (90%) construction completion.

(D) Wastewater Operator. The recipient must make provision satisfactory to the department for assuring that qualified wastewater operator and maintenance personnel are hired in accordance with an approved schedule. Qualified personnel shall be those meeting the requirements established under 10 CSR 20-9.020.

(25) Retention of Records. This section describes the minimum record retention requirements for recipients of SRF assistance.

(A) Construction-Related Activities. The recipient must retain all financial, technical and administrative records related to the planning, design and construction of the project for a minimum period of four (4) years following receipt of the final construction payment from SRF associated assistance or the recipient's acceptance of construction, whichever is later. Records shall be available to state, federal officials, or both, for audit purposes during normal business hours during that period.

(B) Post-Construction Financing Activities. The recipient must retain all financial and administrative records related to post-construction project financing for a minimum period of four (4) years following full repayment of any assistance on the SRF project.

(26) Conflict of Interest. No employee, officer or agent of the recipient shall participate in the selection, award or administration of a subagreement supported by state or federal funds if a conflict of interest, real or apparent, would be involved.

(A) This conflict would arise when—

1. Any employee, officer or agent of the recipient, any member of their immediate families or their partners have a financial or other interest in the firm selected for a contract; or

2. An organization which may receive or has been awarded a subagreement employs, or is about to employ, any person under paragraph (26)(A)1.

(B) The recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of substantial monetary value from contractors, potential contractors or other parties to subagreements.

AUTHORITY: section 644.026, RSMo Supp. 1995. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. Amended: Filed April 2, 1990, effective Sept. 28, 1990. Emergency amendment filed July 17, 1990, effective July*

30, 1990, expired Nov. 26, 1990. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed March 4, 1993, effective Sept. 9, 1993. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective Nov. 30, 1996.

**Original authority 1972, amended 1973, 1987, 1993, 1995.*

10 CSR 20-4.041 Direct Loan Program

PURPOSE: This rule sets forth the requirements for implementation of direct loan programs to be financed through the state revolving fund program contained in 10 CSR 20-4.040 or the State Direct Loan Program.

(1) General. The department may make direct loans by purchasing the general obligation bonds, revenue bonds, short-term notes or other acceptable obligation of any qualified applicant for the planning, design and/or construction of an eligible project. These loans shall not exceed the total eligible project costs as described in 10 CSR 20-4.040(23) less any amounts financed by any means other than through the applicable direct loan program.

(2) State Revolving Fund (SRF) Direct Loans. Funding for these loans is from SRF loan repayments or federal capitalization grants. The provisions and requirements of the State Revolving Fund General Assistance Regulation, 10 CSR 20-4.040, apply to loans awarded under this regulation.

(3) State Direct Loan Program. Funding for these loans is from state bond funds. The provisions and requirements of the State Revolving Fund General Assistance Regulation, 10 CSR 20-4.040, apply to loans awarded under this regulation unless specifically provided for herein. In addition to those eligible items specified in 10 CSR 20-4.040, loans made under this program may incorporate as an eligible project cost: easements, rights-of-way and land acquisition integral to the project. Eligibility shall be limited to fair market value. Applicants must have submitted a preliminary project proposal to the Missouri Water and Wastewater Review Committee (MWWRC) and received an invitation from the MWWRC to apply for financial assistance.

(4) Letter of Intent. The department may issue a letter of intent to make a direct loan when the application documents are approved and the commission approves the project for receipt of loan funds. The letter of intent shall state the amount of funds reserved for the

project, the requirements to qualify for receipt of loan funds and the schedule for the applicant to meet all requirements. The department may terminate this letter of intent for failure to meet the schedule requirements or conditions of the letter of intent. The amount of assistance stated in the letter of intent may be adjusted to reflect actual costs, subject to commission approval and the availability of funds.

(5) Interest Rates.

(A) The interest rate charged by the department on direct loans shall be equal to the target interest rate calculated under section (4) of 10 CSR 20-4.040. Interest on construction loans will begin accruing on the last day of the month in which a construction advance is made and will be compounded at the end of each month after that until such time as the construction loan along with all interest accrued is paid in full.

(B) Direct loans provided as a match to the Hardship Grant Program as provided for in 10 CSR 20-4.043 shall have a zero percent (0%) interest rate.

(6) Construction Loans.

(A) The department may award construction loans to qualified applicants in order to provide interim financing during construction of their project. Construction loans may contain clauses and provisions determined by the department to be necessary to protect the interests of the state.

(B) With exception of substate revolving funds, the construction loan will remain in force throughout the construction period. However, it must be paid in full no later than six (6) months following the initiation of operation of the facility constructed by the project or the closing deadline provided in the construction loan agreement, whichever is earlier.

(C) If the department is to provide long-term financing under this rule, then the construction loan must contain an agreement by the department and the recipient that the department will purchase the recipient's general obligation, revenue bonds or other acceptable debt obligation after construction is completed. If a construction loan is awarded, the permanent financing amount will be limited in amount to the sum of the payments drawn from the construction loan for eligible project costs plus interest accrued on the construction loan plus the reasonable costs of issuance which can be financed under Missouri statutes.

(D) Unless specifically addressed in the loan documents, the recipient may request construction loan payments no more often

than monthly. The maximum construction advance shall be the sum of all eligible costs incurred to date. Each payment request shall include the information listed in the following paragraphs (4)(D)1.-3. and other information deemed necessary by the department to insure proper project management and expenditure of public funds:

1. Completed reimbursement request form;

2. Construction pay estimates signed by the construction contractor, the recipient and the resident inspector, if applicable; and

3. Invoices for other eligible services, equipment and supplies for the project.

(E) If the department is satisfied that the payment request accurately reflects the eligible cost incurred to date on the project, the department will request that a state payment check be issued to the recipient.

(7) Trustee or Paying Agent.

(A) The department may require the recipient to contract with a trustee or paying agent to provide all or part of the services listed in the following paragraphs (7)(A)1.-4. of this rule. The department may require recipients of less than thirty thousand (30,000) service area population to use the services of the trustee, to—

1. Make joint assistance payments to the recipients and their contractors;

2. Ensure that payments are only released to those recipients whose contractors have a project contract approved by the department;

3. Ensure that none of the recipient's contractors receive more in assistance payments than approved by the department; and

4. Maintain financial records of credits and debits for the construction project.

(B) If a SRF or state direct loan is matched with a grant awarded under 10 CSR 20-4.023, the maximum loan amount will be calculated as follows: grant amount divided by four-tenths (.4) less the grant amount plus approved costs of issuance and capitalized interest, as appropriate.

(8) Purchase of Obligations. The department shall purchase revenue bonds, general obligation bonds or other acceptable debt obligations from the recipient no later than six (6) months following initiation of operation of the facilities constructed by the project or by the closing deadline contained in the construction loan agreement, whichever is earlier. In addition to the requirements of this rule, the department may require the recipient to include those assurances and clauses in the loan agreements and bond resolutions as

deemed necessary to protect the interest of the state.

(9) Amortization Schedules. The department shall use the guidelines contained in the following subsections (9)(A)–(E) to establish amortization schedules for obligations purchased under this rule:

(A) The bonds, notes or other debt obligations shall be fully amortized in no more than twenty (20) years after initiation of operation;

(B) The payment frequency on any debt obligations shall be no less than annual with the first payment no later than one (1) year after the initiation of operation;

(C) The amortization schedule may either be straightline or declining schedules for the term of the debt obligation;

(D) Repayment of principal shall begin not later than one (1) year after initiation of operation; and

(E) If at any time during the loan period the facility(ies) financed under this rule is sold, either outright or on contract for deed, to other than a political subdivision of the state, the loan becomes due and payable upon transfer.

(10) Loan Fees. The department may charge annual loan fees not to exceed one-half percent (.5%) of the outstanding loan balance of each loan. Those fees are intended to reimburse the department for the cost of loan origination, loan servicing and administration of the program.

(11) Additional Administrative Fees Allowed. Additional administrative fees may be assessed by the department at the time the administration fee is calculated for failure by a recipient to submit approved documents to the department (for example, operation and maintenance manuals, plan of operation, enacted user charge and sewer-use ordinances and executed contract documents) in accordance with the time frames provided under the program agreement entered into by the recipient. The additional fee will be an additional one-tenth percent (.1%) per month that the document remains delinquent. The additional fee will be collected only during the year in which the document is not submitted.

(12) Variations of Structure Permitted. This rule sets out the general format for the direct loan programs. The commission and the department shall have the authority to make specific refinements, variations or additional requirements as may be necessary or desirable in connection with the efficient operation of the direct loan program.

AUTHORITY: sections 644.026 and 644.122, RSMo Supp. 1998. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. Amended: Filed April 2, 1990, effective Sept. 28, 1990. Emergency amendment filed July 17, 1990, effective July 30, 1990, expired Nov. 26, 1990. Amended: Filed March 4, 1993, effective Sept. 9, 1993. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed June 24, 1999, effective March 30, 2000.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995 and 644.122, RSMo 1987, amended 1991, 1993, 1998.*

10 CSR 20-4.042 Leveraged Loan Program

PURPOSE: This rule sets forth the requirements for implementation of a leveraged loan program to be financed through a combination of the Water and Wastewater Loan Fund or the Wastewater Revolving Loan Fund administered by the commission and funds made available from the proceeds of revenue bonds issued by the Environmental Improvement and Energy Resources Authority or the recipient. The leveraged loan program is designed to provide low interest loans to recipients to finance the planning, design and construction of wastewater treatment facilities.

(1) General. The leveraged loan program is designed to maximize the funding available to make loans to recipients for the planning, design and construction of eligible projects. The Environmental Improvement and Energy Resources Authority (EIERA) will participate in the leveraged loan program by issuing its bonds or notes in accordance with its governing statute. The determination as to whether a recipient shall receive a leveraged loan under this rule shall be made in accordance with 10 CSR 20-4.040(3) and shall be subject to the approval of the EIERA.

(2) State Revolving Fund (SRF) Regulation. The provisions and requirements of the SRF regulation, 10 CSR 20-4.040, apply to loans awarded under this regulation.

(3) General Program Description. Under the leveraged loan program, the recipient must obtain construction funds and any needed financing from EIERA. The recipient will receive a loan from the Water and Wastewater Loan Fund (WWLF) or the Water and Wastewater Revolving Loan Fund (WWRLF) in accordance with section (5) of this rule. The recipient will be required to place the

proceeds of the WWLF or WWRLF loan in a debt service reserve fund to secure the construction loan. The interest earnings on the debt service reserve fund will provide a subsidy by paying a portion of the interest costs of the EIERA bonds or notes used to provide the construction loan. The principal amount of the WWLF or WWRLF loan, will be repaid to the WWLF or WWRLF.

(4) Additional Application Requirements. In addition to the application requirements contained in 10 CSR 20-4.040(9), applicants for leveraged loans must provide a description of the proposed method of obtaining any necessary financing for costs not to be financed by the SRF including information regarding the applicant's progress toward obtaining the funds and assistance.

(5) WWLF or WWRLF Loans. As each leveraged loan is made, loans from the WWLF or WWRLF will be made to the loan recipient in accordance with section (9) of this rule. The loan from the WWLF or WWRLF will be used to fund a debt service reserve. Payments into the debt service reserve will be made as provided in section (9) of this rule. The WWLF or WWRLF loans shall bear an interest rate of zero percent (0%). Recipients will be charged a fee on the WWLF or WWRLF loan in accordance with 10 CSR 20-4.040. Interest earnings on the debt service reserve fund will pay a portion of the interest costs of the EIERA bonds or notes used to provide the construction loan. The WWLF or WWRLF loans shall be sized to provide an estimated subsidy adequate to reduce the net interest cost of the EIERA loan to the target interest rate (TIR). Repayments of the WWLF or WWRLF loan shall be made in accordance with section (11) of this rule.

(6) Construction Loan Fund. Net proceeds from the sale of any project bonds or notes issued by the EIERA for eligible project costs shall be used to fund construction of the project. These proceeds shall be deposited with a construction loan trustee and disbursed as construction progresses pursuant to section (8) of this rule.

(7) Loan Agreements. In addition to the requirements of this rule, the department and the EIERA may require the recipient to include those assurances and certifications in the loan agreements and bond resolutions as deemed necessary to protect the interest of the state and the EIERA and to comply with federal requirements.

(8) Disbursements from Loan Proceeds. The recipient shall request payments from the construction loan fund, which shall include the information listed in subsections (8)(A)-(D) and other information deemed necessary and approved by the EIERA to ensure proper project management and expenditure of public funds:

(A) Completed reimbursement request form;

(B) Construction pay estimates signed by the construction contractor, the recipient and the resident inspector if applicable;

(C) Invoices for other eligible services, equipment and supplies for the project; and

(D) Any other documentation required under the provisions of the trust indenture.

(9) WWLF or WWRLF Payments. The loan from the WWLF or WWRLF will be paid in one (1) or more installments by deposit to the debt service reserve fund on behalf of the recipient. Interest earnings on the debt service reserve fund will pay a portion of the interest costs of the EIERA bonds or notes used to provide the construction loan.

(10) Amortization Schedules. The EIERA shall establish amortization schedules for long-term loans awarded under this rule.

(A) Repayment of principal shall begin not later than one (1) year after initiation of operation.

(B) The loans shall be fully repaid in no more than twenty (20) years after initiation of operation.

(11) Loan Repayment.

(A) Repayment of principal and penalties to the WWLF or WWRLF will be made by the release of money from the debt service reserve fund. If funds for these payments are not available in the debt service reserve, then the payment shall be made from other funds of the recipient.

(B) Repayment of principal and interest on the EIERA bonds or notes will be paid from revenues of the user charge system or from another dedicated source of revenue as may be designated in the applicable bond resolutions or loan agreements.

(12) Additional Administrative Fees Allowed. Additional administrative fees may be assessed by the department at the time the administration fee is calculated for failure by a recipient to submit approved documents to the department (for example, operation and maintenance manuals, plan of operation, enacted user charge and sewer-use ordinances, executed contract documents) in accordance with the time frames provided

under the program participation agreement entered into by the recipient. The additional fee will be an additional one-tenth percent (.1%) per month that the document remains delinquent. The additional fee will be collected only during the year in which the document is not submitted.

(13) Variations of Structure Permitted. This rule sets out the general format for the leveraged loan program. The commission, the department and the EIARA shall have the authority to make specific refinements, variations or additional requirements as may be necessary or desirable in connection with the efficient operation of the leveraged loan program.

AUTHORITY: section 644.026, RSMo Supp. 1993. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. Amended: Filed April 2, 1990, effective Sept. 28, 1990. Emergency amendment filed July 17, 1990, effective July 30, 1990, expired Nov. 26, 1990. Amended: Filed March 4, 1993, effective Sept. 9, 1993. Amended: Filed April 14, 1994, effective Nov. 30, 1994.*

**Original authority 1972, amended 1973, 1987, 1993.*

10 CSR 20-4.043 Hardship Grant Program

PURPOSE: This rule sets forth the eligibility, requirements and process of application for a hardship grant and direct loan program available to economically disadvantaged communities for the planning, design and construction of wastewater treatment facilities. This program is to be administered in conjunction with the existing Wastewater State Revolving Fund Program or State Direct Loan Program.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of the material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Grant amount will be based on the following affordability criteria: The user charge for the five thousand (5,000) gallons per month average user including total debt service, operation, maintenance and replacement, will not exceed two percent (2%) of the

applicant's median household income as published in the most recent decennial census.

(2) Grants may be matched with state revolving fund direct loans or state direct loans as described in 10 CSR 20-4.041 Direct Loan Program, in the amount necessary to finance the total eligible costs of the project. Hardship grants may be matched with funds from other funding agencies. The hardship grant amount shall not exceed the amount necessary to reduce user rates including debt (revenue and general obligation bonds or other debt instrument directly supporting the project) and operation, maintenance and replacement costs in line with the affordability criteria in section (1) of this rule.

(3) Eligible applicants are incorporated rural communities, water and sewer districts which, in November of the fiscal year the application is made for assistance, meet the following criteria:

(A) Have more than a single household but no more than three thousand (3,000) inhabitants and are not within the corporate boundaries of a larger city;

(B) Lack centralized wastewater treatment and/or collection systems or need improvements to on-site wastewater treatment systems;

(C) The per capita income of the residents served by the project as reported by the Bureau of Census in the most recent decennial census does not exceed eighty percent (80%) of the national per capita income provided in the most recent decennial census;

(D) The most recent unemployment rate as reported by the Missouri Department of Labor and Industrial Relations or, if individual project data is not available, the most recent county unemployment rate exceeds by at least one (1) percentage point the most recent monthly national unemployment rate provided by the Bureau of Labor Statistics or, in the situation where census information is not available, other sources of information regarding per capita income may be used if approved by the department;

(E) Without hardship assistance, the average annual wastewater cost per household would exceed department affordability criteria as established in section (1) of this rule; and

(F) The community or district is included on the Hardship Grant Fundable list on the Intended Use Plan.

(4) Grant Requirements.

(A) All applicants must apply for a State Revolving Fund (SRF) Loan/Hardship Grant using the form provided by the department.

With exception of State Fiscal Year 1998, the application must be postmarked by November 15 prior to the fiscal year for which assistance is being sought. Applications submitted during State Fiscal Year 1998 must be postmarked by the date indicated on the application form. Applications must be accompanied by a detailed engineering report discussing the scope of the project and showing total project costs and a proposed user charge system including a replacement schedule. Applications submitted without these attachments will be considered incomplete and will not be considered for funding. Costs associated with the application preparation, engineering report and user charge system may not be eligible for program participation.

(B) Eligible applicants will be prioritized and placed in priority point order on a planning or fundable list in accordance with 10 CSR 20-4.010(1)(A). This list will be published in the Intended Use Plan for the fiscal year assistance is being sought.

(C) The commission will select the highest rated projects for assistance from the funds anticipated to be available during the upcoming fiscal year. However, if a fundable high priority project has not submitted and obtained approval of all documents required within two (2) years of being placed on the fundable list, it will be removed and replaced with the highest priority project on the contingency list. Documents which must be submitted and approved include, but are not limited to, facility plan, engineering plans and specifications, engineering agreement, user charge ordinance, sewer use ordinance, assurance of easement acquisition, and construction permit application.

(D) Applicants receiving matching SRF loan assistance of fifteen percent (15%) of the eligible project cost or more must meet the provisions and requirements of 10 CSR 20-4.040 SRF General Assistance Regulation, and 10 CSR 20-4.041 Direct Loan Program. Fundable projects requesting SRF direct loan assistance may be placed on that fiscal year's SRF direct loan fundable list as a special priority category project.

(E) Applicants receiving matching SRF loan assistance of less than fifteen percent (15%) of the eligible project cost must meet the document submittal requirements of 10 CSR 20-4.040 SRF General Assistance Regulation, and the federal general grant regulations at 40 CFR part 31, which this rule incorporates by reference, and other rules that apply to subrecipients of federal grants and federal crosscutting authorities.

(F) Applicants must have submitted a preliminary project proposal to the Missouri Water and Wastewater Review Committee

(MWWRC) and received an invitation from the MWWRC to apply for financial assistance from the department.

(G) Eligible projects and project requirements are those listed in 10 CSR 20-4.041(1)–(9) Direct Loan Program, and 10 CSR 20-4.040 SRF General Assistance Regulation.

(5) Recipients who construct wastewater treatment facilities that require a state operating permit shall, as a condition of the grant or loan, maintain said permit over the life of the constructed works including payment of all fees associated thereto.

(6) If at any time during the twenty (20)-year design life of the facility(ies) funded under this rule, the facility is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a twenty (20)-year straight-line depreciation. Grant funds to be reimbursed shall become due and payable upon transfer of ownership of the facility(ies).

(7) The requirements of this hardship grant rule will govern in case of any discrepancies or contradictions in definition or requirements between this rule and the related rules cited.

AUTHORITY: sections 644.026 and 644.101, RSMo Supp. 1998. Original rule filed Nov. 3, 1997, effective July 30, 1998. Amended: Filed June 24, 1999, effective March 30, 2000.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995 and 644.101, RSMo 1972, amended 1973, 1982, 1987, 1991, 1993, 1998.*

10 CSR 20-4.049 State Match to State Revolving Fund Loan Program

PURPOSE: This rule sets forth the requirements and process of application for a state grant to match state revolving loan funds for construction of wastewater treatment works and the terms and conditions for receipt of the grant.

(1) Grant funds will be made available to eligible projects when authorized by annual legislative appropriation. Grants will not be available for projects in fiscal years in which funding is not authorized.

(2) When funds are available, the state grant share will be fifteen percent (15%) of the eligible project cost for twenty (20)-year financing. For financing of less than twenty (20)

years, the commission will establish a grant percentage of no more than fifteen percent (15%).

(3) Eligible projects are all projects which have been approved for loan assistance under the State Revolving Fund (SRF) program established by 10 CSR 20-4.040–10 CSR 20-4.042.

(4) State grant payments to recipients will be released following approval of each SRF loan payment under 10 CSR 20-4.040–10 CSR 20-4.042. The amount of each grant payment will be calculated by applying the ratio of total grant funds to total loan funds obligated for the project to the total of all approved loan payments to date. This amount will be reduced by grant payments which had been processed previously.

(5) The following actions by the loan/grant recipient may result in the department requiring partial or full repayment of matching grant funds:

(A) Receipt of additional grant funds from a different agency for the SRF project which causes the aggregate assistance to exceed one hundred percent (100%) of costs;

(B) Transfer of the ownership of the facilities completed with grant/loan funds within the design life of the project;

(C) Early repayment of the SRF loan;

(D) Noncompliance with National Pollutant Discharge Elimination System permit or enforceable schedule requirements; or

(E) Noncompliance with terms of SRF loan agreements.

AUTHORITY: section 644.026, RSMo . Supp. 1993. Emergency rule filed Jan. 17, 1990, effective Jan. 29, 1990, expired May 28, 1990. Original rule filed July 2, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992.*

**Original authority 1972, amended 1973, 1987, 1993.*

10 CSR 20-4.050 Environmental Review

PURPOSE: As required by the provisions of Section 602(b)(6) of the Federal Clean Water Act, the department will conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the State Revolving Fund. This rule establishes the procedures for these environmental reviews.

Editor's Note: The secretary of state has determined that the publication of this rule in

its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) General. The environmental review will ensure that the project will comply with the applicable local, state and federal laws and commission rules relating to the protection and enhancement of the environment. Based upon the staff's review, the director of staff will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of the provision of financial assistance for building and no financial assistance will be provided until a final environmental determination has been made. Nothing in these rules shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determinations of the director of staff.

(A) Basic Environmental Determinations. There are three (3) basic environmental determinations that will apply to projects proposed to be implemented with assistance from the fund. These are a determination to categorically exclude a project from a formal environmental review, a finding of no significant impact/environmental assessment (FNSI/EA) based upon a formal environmental review and a determination to provide or not provide financial assistance based upon a record of decision (ROD) following the preparation of an environmental impact statement (EIS). The appropriate determination will be based on the following criteria:

1. The categorical exclusion (CE) determination applies to categories of projects that have been shown over time not to entail significant impacts on the quality of the human environment.

A. Projects which meet either of the following criteria may be categorically excluded from formal environmental review requirements:

(I) The project is directed solely toward minor rehabilitation of existing facilities, functional replacement of equipment or toward the construction of related facilities adjoining the existing facilities that do not affect the degree of treatment or the capacity of the works. Examples include infiltration

and inflow correction, rehabilitation of existing equipment and structures and the construction of small structures on existing sites; and

(II) The project is in a community of less than ten thousand (10,000) population and is for minor expansions or upgrading of existing treatment works or on-site disposal systems are proposed.

B. CEs will not be granted for projects that entail—

(I) The construction of new collection lines;

(II) A new discharge or relocation of an existing discharge;

(III) An increase of more than thirty percent (30%) in the volume or loading of pollutants;

(IV) Provision of a capacity for a population thirty percent (30%) or greater than the existing population;

(V) Known or expected impacts to cultural resources, threatened or endangered species, or other environmentally sensitive areas; and

(VI) The construction of facilities that are known or expected to be not cost-effective or are likely to cause significant public controversy;

2. The FNSI/EA will be based upon an environmental review by the staff supported by an environmental information document (EID) prepared by the applicant in conformance with guidance developed by the commission. If a FNSI/EA is not appropriate, a public notice noting the preparation of an EIS will be required. The director of staff's issuance of a FNSI/EA will be based upon documentation that the potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures; and

3. The ROD may only be based upon an EIS in conformance with the format and guidelines described in subsection (2)(C). An EIS will be required when the director of staff determines any of the following:

A. The project significantly will affect the pattern and type of land use or growth and distribution of the population;

B. The effects resulting from any structure or facility constructed or operated under the proposed action may conflict with local or state land use plans or policies;

C. The project may have significant adverse impacts upon—

(I) Wetlands;

(II) Floodplains;

(III) Threatened and endangered species or their habitats;

(IV) Cultural resources including parklands, preserves, other public lands or

recognized scenic, recreational, prime farmlands, archeological or historic value; and

(V) Prime farmland;

D. The project will displace populations or significantly alter the characteristics of existing residential areas; and

E. The project directly or indirectly (for example, through induced development) may have significant adverse effect upon local ambient air quality, local noise levels, surface and groundwater quantity or quality, fish, shellfish, wildlife or their natural habitats.

(B) Other Determinations That Are Required of the Director of Staff.

1. Recognizing that a project may be altered at some time after an environmental determination on the project has been issued, the director of staff will provide that, prior to approval, the plans and specifications, loan application and related documents will be examined for consistency with the environmental determination. If inconsistencies are found, the director of staff may revoke a CE and require the preparation of an FNSI/EA or an EIS, consistent with the criteria of subsection (1)(A) of this rule, or require the preparation of amendments to an FNSI/EA or supplements to an EIS, as appropriate. Based upon the staff's review of the amended project, the director of staff will—

A. Reaffirm the original environmental determination through the issuance of a public notice or statement of finding;

B. Issue a FNSI for a project for which a CE has been revoked or issue a public notice that the preparation of an EIS will be required;

C. Issue an amendment to a FNSI/EA or revoke a FNSI and issue a public notice that the preparation of an EIS will be required; or

D. Issue a supplement to a ROD or revoke a ROD and issue a public notice that financial assistance will not be provided.

2. When five (5) or more years have elapsed between the last environmental determination and the submittal of an application to the fund, the director of staff will reevaluate the project, environmental conditions and public views and, prior to approval of the application, proceed in accordance with subsection (3)(A).

(C) Other Determinations That Are Available to the Commission.

1. An applicant may request advance authority to construct part of the proposed wastewater treatment project prior to completion of the necessary environmental review when the part of the project will—

A. Remedy a severe public health, water quality or environmental problem immediately;

B. Not preclude any reasonable alternatives identified for the complete system;

C. Not cause significant direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire project; and

D. Not be highly controversial.

2. Based upon the review of the information required by section (2) of this rule, the director of staff will issue a FNSI/EA so conditioned as to prohibit construction of the remainder of the project until a complete environmental review has been performed and a subsequent environmental determination has been issued.

(2) Environmental Information Required by the Commission. A minimum of three (3) copies of all information required in this section shall be submitted to the commission.

(A) Applicants seeking a CE will provide the director of staff with sufficient documentation to demonstrate compliance with the criteria of subsection (1)(A). At a minimum, this will consist of a—

1. Brief, complete description of the proposed project and its costs;

2. Statement indicating that the project is cost-effective and that the applicant is financially capable of constructing, operating and maintaining the facilities; and

3. Plan map(s) of the proposed project showing—

A. The location of all construction areas;

B. The planning area boundaries; and

C. Any known environmentally sensitive areas.

(B) An EID must be submitted by those applicants whose proposed projects do not meet the criteria for a CE and for which the director of staff has made a preliminary determination that an EIS will not be required. The director of staff will provide guidance on both the format and contents of the EID to potential applicants prior to initiation of facilities planning.

1. At a minimum, the contents of an EID will include:

A. The purpose and need for the project;

B. The environmental setting of the project and the future of the environment without the project;

C. The alternatives to the project as proposed;

D. A description of the proposed project;

E. The potential environmental impacts of the project as proposed including those which cannot be avoided;

F. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity;

G. Any irreversible and irretrievable commitments of resources to the proposed project;

H. A description of public participation activities conducted, issues raised and changes to the project which may be made as a result of the public participation process; and

I. Documentation of coordination with appropriate governmental agencies.

2. Prior to the applicant's adoption of the facilities plan, the applicant will hold a public hearing on the proposed project and the EID, and provide the director of staff with a verbatim transcript of the hearing. The director of staff will provide guidance to the applicant regarding the contents of the hearing notice and of the hearing. The hearing will be advertised at least thirty (30) days in advance in a local newspaper of general circulation. Concurrent with the advertisement, a notice of the public hearing and availability of the documents will be sent to all local, state and federal agencies and public and private parties that may have an interest in the proposed project. Included with the transcript will be a list of all attendees with addresses, any written testimony and the applicant's responses to the issues raised.

3. The department will provide copies of the FNSI/EA to all federal, state and local agencies and others with an interest in the project.

(C) The format of an EIS will encourage sound analyses and clear presentation of alternatives, including the no-action alternative and the selected alternative and their environmental, economic and social impacts. The following format must be followed by the applicant unless the director of staff determines there are compelling reasons to do otherwise:

1. A cover sheet identifying the applicant, the project(s), the program through which financial assistance is requested and the date of publication;

2. An executive summary consisting of a five to fifteen (5-15) page summary of the critical issues of the EIS in sufficient detail that the reader may become familiar with the proposed project and its cumulative effects. The summary will include:

A. A description of the existing problem;

B. A description of each alternative;

C. A listing of each alternative's potential environmental impacts, mitigative measures and any areas of controversy; and

D. Any major conclusions;

3. The body of the EIS which will contain the following information:

A. A complete and clear description of the purpose and need for the proposed project that clearly identifies its goals and objectives;

B. A balanced description of each alternative considered by the applicant. The descriptions will include the size and location of the facilities and pipelines, land requirements, operation and maintenance requirements and construction schedules. The alternative of no action will be discussed and the applicant's preferred alternative(s) will be identified. Alternatives that were eliminated from detailed examination will be presented with the reasons for their elimination;

C. A description of the alternatives available to the commission including:

(I) Providing financial assistance to the proposed project;

(II) Requiring that the proposed project be modified prior to providing financial assistance to reduce adverse environmental impacts or providing assistance with conditions requiring the implementation of mitigative measures; and

(III) Not providing financial assistance;

D. A description of the alternatives available to other local, state and federal agencies which may have the ability to issue or deny a permit, provide financial assistance or otherwise affect or have an interest in any of the alternatives;

E. A description of the affected environment and environmental consequences of each alternative including secondary and cumulative impacts. The affected environment on which the evaluation of each alternative will be based includes, as a partial listing, hydrology, geology, air quality, noise, biology, socioeconomics, land use and cultural resources of the facilities planning area. The department will provide guidance, as necessary, to the applicant regarding the evaluation of the affected environment. The discussion will present the total impacts of each alternative in a manner that will facilitate comparison. The effects of the no-action alternative must be included to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives. A description of the existing environment will be included in the no-action section to provide background information. The detail in which the affected environment is described will be commensurate with the complexity of the situation and the significance of the anticipated impacts;

4. The draft EIS will be provided to all local, state and federal agencies and public groups with an interest in the proposed project and be made available to the public for review. The final EIS will include all objections and suggestions made before and during the draft EIS review process along with the issues of public concern expressed by individuals or interested groups. The final EIS must include discussions of any comments pertinent to the project or the EIS. All commenters will be identified. If a comment has led to a change in either the project or the EIS, the reason should be given. The department will always endeavor to resolve any conflicts that may have arisen, particularly among permitting agencies, prior to the issuance of the final EIS. In all cases, the comment period will be no less than forty-five (45) days;

5. Material incorporated into an EIS by reference will be organized into a supplemental information document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons within the comment periods specified in paragraph (2)(C)4. and subparagraph (2)(C)7.C.;

6. When an EIS is prepared by contractors, either in the service of the applicant or the department, the department will independently evaluate the EIS prior to issuance of the ROD and take responsibility for its scope and contents. The staff who undertake this evaluation will be identified under the list of preparers along with those of the contractor and any other parties responsible for the content of the EIS; and

7. The public participation required for an EIS is extensive but, depending upon the nature and scope of the proposed project, should be supplemented by the applicant. The following requirements represent the minimum allowable:

A. Upon making the determination that an EIS will be required of a proposed project, the department will distribute a notice of intent to prepare an EIS;

B. As soon as possible after the notice of intent has been issued, the director of staff will convene a meeting of the affected federal, state and local agencies, the applicant and other interested parties to determine the scope of the EIS. A notice of this scoping meeting may be incorporated into the notice of intent or prepared as in paragraph (2)(B)2. of this rule except that in no case will the notification period be less than forty-five (45) days. As part of the scoping meeting, the director of staff at a minimum will—

(I) Determine the significance of issues and analyze in depth the scope of those significant issues in the EIS;

(II) Identify the preliminary range of alternatives to be considered;

(III) Identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(IV) Discuss the method for EIS preparation and the public participation strategy;

(V) Identify consultation requirement of other laws and regulations; and

(VI) Determine the relationship between the preparation of the EIS and the completion of the facilities plan and any necessary arrangements for coordination of the preparation of both documents; and

C. Following the scoping process, the director of staff will begin the identification and evaluation of all potentially viable alternatives to adequately address the range of issues developed in the scoping. A summary of this, including a list of the significant issues identified, will be provided to the applicant and other interested parties. Preparation of the EIS will be done at the discretion of the commission: directly, by the staff; by consultants to the commission; or by a consultant contracted by the applicant subject to approval by the commission. In the latter two (2) cases, the consultant will be required to execute a disclosure statement prepared by the department signifying they have no financial or other conflicting interest in the outcome of the project. Both the draft EIS and final EIS will be distributed and made available for public review in a fashion consistent with the requirements of paragraph (2)(B)2. of this rule except that the advertisement and comment period for the public participation will be no less than forty-five (45) days. The department will publish in a newspaper of general circulation in the project area, a notice of availability of the EIS giving locations at which it will be available for public review at least forty-five (45) days prior to making any environmental determination.

(3) Environmental Review.

(A) When the director of staff has determined that an applicant's proposed project may be excluded from a formal environmental review, the director of staff will prepare a public notice of the determination to categorically exclude the project and the availability of supporting documentation for public inspection. The notice will be published in a local newspaper of community-wide circulation by the applicant. The director of staff,

concurrent with the publication, will distribute the notice to all interested parties.

(B) An environmental review of the proposed project, supported by the applicant's EID, will be conducted by the director of staff to determine whether any significant impacts are anticipated and whether any changes may be made in the proposed project to eliminate significant adverse impacts. As part of this review, the director of staff may require the applicant to submit additional information or undertake additional public participation and coordination to support its environmental determination. Based on the environmental review, the director of staff will prepare a FNSI/EA describing—

1. The purpose and need for the proposed project;

2. The proposed project including its costs;

3. The alternatives considered and the reasons for their rejection or acceptance;

4. The existing environment;

5. Any potential adverse impacts and mitigative measures; and

6. Any proposed conditions to the provision of financial assistance and any means provided for the monitoring of compliance with the conditions.

(C) The FNSI/EA will be distributed to all parties, governmental entities and agencies that may have an interest in the proposed project. No action regarding approval of the facilities plan or the provision of financial assistance will be taken by the director of staff for at least thirty (30) days after the issuance of the FNSI/EA.

(D) Public participation requirements for an EIS are detailed in paragraph (2)(B)2. except the ROD and final EIS shall have a forty-five (45)-day period of notice.

(E) In accordance with paragraphs (1)(B)1. and 2. and subsection (1)(C), the director of staff will conduct environmental reviews and issue public notices or amended determinations as appropriate.

AUTHORITY: section 644.026, RSMo Supp. 1993. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989.*

**Original authority 1972, amended 1973, 1987, 1993.*

10 CSR 20-4.060 Storm Water Assistance Regulation

PURPOSE: This rule sets forth the requirements and process of application for storm water grants for construction of storm water control facilities and the terms and conditions for receipt of the grant as revised. This rule

also clarifies the requirements, the types of facilities eligible for grant funds and the grant amount available for eligible grantees.

(1) Applicability. This rule defines the minimum requirements which apply to all recipients of assistance under the state storm water grant program. The recipient must satisfy more stringent requirements if required to do so by state or local statutes, policies, rules, ordinances or orders.

(2) Definitions.

(A) Storm water coordinating committee (SCC). If section 644.031, RSMo allows discretion on distributing funds among local governments, a local committee or group involved in project screening and project selection. In Kansas City, the SCC shall consist of a committee or organizational unit designated by the city manager of Kansas City. In St. Louis City and County, the SCC shall consist of a committee or organizational unit designated by the executive director of the Metropolitan St. Louis Sewer District. In all eligible counties as defined by section 644.031, RSMo, except St. Louis County, an SCC must be established which is representative of the county government and incorporated municipalities within the county.

(B) Force Account. Project design, construction or engineering inspection work performed by the recipient's regular employees.

(C) Limited structural approach. Those methods which include, but are not limited to, reduction of flows, removal of structures, use of natural vegetation, or a combination of these, to achieve a safe, aesthetically acceptable control of surface water runoff, and methods and management practices which improve the quality of surface water runoff.

(3) General Requirements.

(A) Jurisdictional Requirements. Storm water funds may be used for storm water projects in any county, or city or as designated in section 644.031, RSMo.

(B) Project Selection. Storm water applications shall be submitted to the Department of Natural Resources (DNR) and postmarked by October 1 of the fiscal year for which funds are sought. The department will review the applications and submit then to the commission for approval no later than April 1 of the fiscal year.

(C) Allocation of Appropriations. Original storm water appropriations and funds subject to reallocation will be allocated to each eligible storm water area by a percentage based on the population of the qualifying city or county in relation to the total population of all eligible cities and counties. The most recent

federal decennial census will be used for all population statistics. The funds for cities and unincorporated areas within the Metropolitan St. Louis Sewer District (MSD) shall be awarded to the sewer district. The amount of this award will be based on the total population of incorporated and unincorporated areas within the district, if required by section 644.031, RSMo, the MSD will further divide these funds proportionally by population to these incorporated and unincorporated areas. Funds for unincorporated areas of St. Louis County and cities outside the MSD will be allocated in accordance with section 644.031, RSMo.

(D) Storm water funds allocated under subsection (3)(C) will be reallocated according to the percentage method contained in subsection (3)(C) if they meet the following criteria:

1. All storm water funds which are not awarded to projects within twelve (12) months of the original appropriation or reallocation; or

2. All storm water funds awarded to projects which fail to have all significant construction contracts awarded within eighteen (18) months of the original appropriation or reallocation or, if used for a study or plan, fail to expend all moneys for such study within two (2) years of the appropriation.

(E) Planning Requirements. All storm water projects must be consistent with a comprehensive storm water drainage plan approved by the department prior to construction advertising. The plan must include a comprehensive evaluation of the drainage areas, the current problems, recommendations, benefits that will result from the proposed projects and the effects each will have on downstream areas. Projects which are solely for bank stabilization or erosion control need only provide the items listed in paragraphs (3)(E)2. and 4. The study should include, but is not limited to:

1. A detailed map of the drainage area showing computed drainage acreages;

2. A narrative, a plan layout and estimated construction costs for each proposed project;

3. Tabulated storm water conceptual design parameters for each drainage area, that is, upstream acres, runoff coefficients, time concentrations, return frequencies and so forth. Computer modeling information may be provided;

4. A recommended project improvement priority list; and

5. A determination of the flood elevation changes resulting from each project. An evaluation of limited structural approaches to storm water control.

(4) Application Documents. Prior to grant award, the applicant must submit a completed storm water grant application to the department. The following documents must be submitted and approved by the department prior to construction advertising. Some documents may be waived by the department on a case-by-case basis if it is determined they are not required for that project:

(A) The following documents are required for a project which includes design and construction:

1. Construction plans, specifications and design criteria;

2. A storm water plan prepared according to the requirements of subsection (3)(E);

3. Certification by the applicant that the facilities, when completed, will be owned, operated and maintained by a political subdivision eligible under subsection (3)(A) of this rule;

4. Certification by the applicant that contract documents and construction bidding will conform to relevant local and state laws;

5. Certification by the applicant that all necessary easements and land have been or will be obtained prior to construction start;

6. Certification by the applicant that the applicant will construct the project or cause it to be constructed to final completion in accordance with the certified plans and specifications;

(B) The following documents must be submitted for all storm water grant projects including grants for planning:

1. Certification by the applicant that all state storm water grant funds will be expended solely for carrying out the approved grant project;

2. Certification by the applicant that a registered professional engineer has been selected and will perform the services required in section (8) of this rule;

3. Certification by the applicant that the local match is available; and

4. Certification by the applicant that any required section 404 dredge and fill permits from the United States Army Corps of Engineers will be obtained prior to construction.

(5) Eligible Project Costs. Eligible costs include, but are not limited to, the following:

(A) Engineering costs for design;

(B) Costs for construction-related engineering;

(C) Construction costs;

(D) Land purchase or easement costs required for storm water holding basins, grass-lined channels or for other limited structural storm water control projects;

(E) Costs of force account work for design, construction and construction engineering;

(F) Demolition costs of structures located within storm water control areas provided future development in the storm water control area is restricted by ordinance;

(G) Costs for development of a comprehensive storm water control plan meeting the requirements of subsection (3)(E); and

(H) Costs not included in subsections (5)(A)–(G) are eligible if determined by the department to be necessary for the project.

(6) Ineligible Project Costs. Ineligible costs include, but are not limited to, the following:

(A) Projects which convey storm water to sinkholes or which modify sinkholes to increase storm water capacity;

(B) Local government administration or legal costs, including appraisals;

(C) Land purchase or easement costs other than those listed in subsection (5)(D);

(D) Finance costs for the local share or interest costs during construction;

(E) Project signs for information to the public but not related to traffic safety; and

(F) Items related to photographing or filming a project for possible complaint mitigation.

(7) Grant Amount. The maximum grant is limited to eighty percent (80%) of the total eligible project costs or available funds, whichever is less. The recipient must provide the remaining amount needed to complete the project.

(8) Engineering Requirements.

(A) A registered professional engineer must prepare the storm water plan and/or design all plans and specifications for competitive bidding and compliance with generally accepted storm water design criteria.

(B) A registered professional engineer or a person under the direction and continuing supervision of a registered professional engineer must provide inspection of construction for the purpose of assuring compliance with the approved plans and specifications.

(9) Bidding Requirements. This section applies to procurement of construction equipment, supplies and construction services in excess of twenty-five thousand dollars (\$25,000) awarded by the recipient for any storm water project other than costs directly related to force account work.

(A) Each contract shall be awarded after formal advertising.

(B) Contract award shall be to the lowest responsive and responsible bidder.

(C) Departmental concurrence with contract award must be obtained prior to the

actual contract award if fewer than three (3) bidders submit bids or if the recipient wishes to award the contract to other than the low bidder. The recipients shall forward the tabulation of bids and a recommendation of contract award to the department for review.

(10) Grant Payments.

(A) Payments will be made in no more than two (2) installments.

1. A first payment may be made when not less than fifty percent (50%) of the construction of the project is completed.

2. A second payment may be made when the project is completed and approved by the department.

(B) Payments at no time shall exceed eighty percent (80%) of the eligible project cost incurred at the time payment is requested.

(C) Any cost of work completed after the final inspection by the department shall not be considered as part of the eligible project cost.

(D) An audit to verify expenditure of grant funds may be made after final payment.

(11) Withdrawal of Grant Offer. The grant offer will be withdrawn and funds reallocated if the applicant fails to obtain MDNR approval for all required documents listed in subsections (4)(A) and (B) prior to contract advertisement.

*AUTHORITY: sections 644.026 and 644.031, RSMo 1994. * Original rule filed Sept. 1, 1989, effective Jan. 12, 1990. Amended: Filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed Nov. 14, 1995, effective July 30, 1996.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987, 1993 and 644.031, RSMo 1977, 1989.*



Application For Stormwater Grant

IDENTIFICATION NUMBER (DNR's Use Only)

PART 1			
A. APPLICANT			
1. Name (Legal Name)			
2. Address			
3. Authorized Representative and Phone Number			
B. PROJECT			
Description & Geographic Location			
C. FINANCIAL SOURCE			
		PROJECT COST	
	ITEM	LOCAL SHARE	STATE GRANT REQUEST
	Administration (Ineligible)	(100%)	(0%)
L A N D	Eligible	(2/3)	(1/3)
	Ineligible	(100%)	(0%)
	Legal (Ineligible)	(100%)	(0%)
E N G I N E R I N G	Preliminary (Ineligible)	(100%)	(0%)
	Design (Eligible)	(2/3)	(1/3)
	Construction (Eligible)	(2/3)	(1/3)
	Interest (Ineligible)	(100%)	(0%)
	Equipment (Ineligible)	(100%)	(0%)
	Construction (Eligible)	(2/3)	(1/3)
	Contingencies (5% Max)	(2/3)	(1/3)
	Other (Spec)		
	TOTAL PROJECT	\$	\$



I. SOURCE OF LOCAL SHARE	
APPLICANT CONTRIBUTIONS	
a. Cash-on-hand	\$ _____
b. Bonds Authorized by Voters	\$ _____
c. Other (described below)	\$ _____
Total Applicant Contributions	
OTHER SOURCES (Please Describe)	
a.	\$ _____
b.	\$ _____
c.	\$ _____
Total of Local Share	\$ _____
TOTAL LOCAL SHARE AVAILABLE	\$ _____

(City Representative)

(Title)

(Date)

10 CSR 20-4.061 Storm Water Grant and Loan Program

PURPOSE: This rule sets forth the requirements and process of application for storm water loans and grants for construction of storm water control facilities and the terms and conditions for receipt of the loan and/or grant as revised. This rule also clarifies the requirements, the types of facilities eligible for funds and the calculation used to determine the amount of loan and grant available for eligible grantees.

(1) **Applicability.** This rule defines the minimum requirements which apply to all recipients of assistance under the state storm water grant and loan program. The recipient must satisfy more stringent requirements if required to do so by the state constitution, state or local statutes, policies, rules, ordinances or orders.

(2) **Definitions.**

(A) **Commission.** The Missouri Clean Water Commission.

(B) **Department.** The Missouri Department of Natural Resources.

(C) **Force account.** Project planning, design, construction or engineering inspection work performed by the recipient's regular employees and rented or leased equipment.

(D) **Storm water coordinating committee (SCC).** A local committee or group established by eligible applicants involved in project screening and project selection. In cities over twenty-five thousand (25,000) population, the SCC shall consist of a committee or organizational unit designated by the city manager. In St. Louis City and County, the SCC shall consist of a committee or organizational unit designated by the executive director of the Metropolitan St. Louis Sewer District. In all eligible counties, except St. Louis County, an SCC must be established which is representative of the county government and incorporated municipalities within the county.

(3) **General Requirements.**

(A) **Jurisdictional Requirements.** Storm water funds may be used for storm water projects in any first class county, or city not within a county, or as specified in Article III, Section 37(h) of the *Missouri Constitution*.

(B) **Project Selection.** First class counties, the Metropolitan St. Louis Sewer District (MSD) and communities within first class counties having a population of twenty-five thousand (25,000) or more shall submit storm water applications to the Department of Natural Resources (DNR), postmarked by January 2 of the fiscal year for which funds

are sought. Communities and unincorporated areas within the MSD shall submit applications to the district by October 1 of the fiscal year. Communities of less than twenty-five thousand (25,000) population and unincorporated areas of the county shall submit applications to their county's Storm Water Coordinating Committee by October 1 of the fiscal year. The committee shall submit the successful applications and their recommendation for project funding to the department postmarked by the January 2 deadline. If either date is on a Sunday, the postmark must be the next business day. The department will review the applications and submit them to the commission for approval no later than April 1 of the fiscal year.

(C) **Allocation of Appropriations.** Original storm water appropriations and funds subject to reallocation will be allocated to each first class county by a percentage based on the population of the qualifying county in relation to the total population of all eligible counties. The most recent federal decennial census will be used for all population statistics. Cities located within first class counties with population equal to or greater than twenty-five thousand (25,000) shall receive grants and loans directly in an amount equal to the percentage ratio that the city's population bears to the total population of the county. For cities or counties served by the MSD, the district shall receive the grants and loans directly. Newly appropriated funds will be fifty percent (50%) loans and fifty percent (50%) grants. Recovered and reallocated funds will retain their original loan or grant designation.

(D) **Storm water funds allocated under subsection (3)(C) will be recovered and reallocated in whole or in part according to the percentage method contained in subsection (3)(C) if the applicant fails to meet the following criteria:**

1. All storm water funds must be awarded to projects within twelve (12) months of the original appropriation or reallocation; or

2. All storm water funds awarded to projects must have all significant construction contracts awarded within eighteen (18) months of the original appropriation or reallocation or, if used for a study or plan, must expend all moneys for such study within two (2) years of the appropriation.

(E) **Planning Requirements.** All storm water projects must be consistent with a comprehensive storm water management plan approved by the department prior to construction advertising. The geographical extent of the planning area may be determined by the department. Projects which are solely for bank stabilization or erosion con-

trol, or other projects as determined by the department, need only provide the items listed in paragraphs (3)(E)2., 4., and 6. The plan should include, but is not limited to:

1. A detailed map of the drainage area showing computed drainage acreage;

2. A narrative, a plan layout and estimated construction costs for each proposed project;

3. Tabulated storm water conceptual design parameters for each drainage area, that is, upstream acres, runoff coefficients, time concentrations, return frequencies and so forth. Computer modeling information may be provided;

4. A recommended project improvement priority list;

5. A determination of the flood elevation changes resulting from each project, unless the Corps of Engineers has committed to remap the area; and

6. An evaluation of limited structural approaches to storm water control. The plan must analyze the use of applied geomorphology and bioengineering techniques to manage storm water. Projects that are only rehabilitation or replacement of existing structures will require an evaluation that addresses reasonable geomorphological alternatives and, if this approach is not taken, a brief discussion why not. For more complex projects, the evaluation should follow guidance provided by the U.S. Army Corps of Engineers Manual EM 1110-4000, *Engineering and Design—Sedimentation Investigations of Rivers and Reservoirs* or an equivalent guidance manual. Soil bioengineering techniques as described in Bowers, H. 1950, *Erosion Control in California Highways*, State of California, Department of Public Works, Division of Highways, shall be used unless other appropriate guidance is used and documented. The root causes of flooding, bed and bank erosion, and sediment deposition should be addressed in this plan. The plan should not exacerbate these problems by—

A. Modifications to stream systems that increase bed and bank erosion in modified stream sections;

B. Cause these impacts in sections that are upstream or downstream of the storm management project;

C. Remove or degrade aquatic habitat;

D. Remove the pollutant removal benefits of vegetated stream corridors; or

E. Lead to increased flooding upstream or downstream of the storm water management project. Combinations of measures can be employed to manage storm water and retain important stream functions.

“Bioengineering” combines mechanical, biological, and ecological concepts to prevent slope failures and erosion. Bioengineering techniques may use bare root stock, stems, branches or trunks of living plants on eroded slopes. Plantings may be incorporated into such configurations as a live stakings, live fascines, or living cribwall. Vegetative plantings and cuttings may be combined with structural elements such as gabion baskets or rock surface armoring. However, the intent should be to minimize hard structural solutions and allow the rooted plantings to do much of the work to hold the soil in place and retain the natural function of streams to convey storm water. Other storm water management options include environmental easements and land acquisition.

(4) Required Documents. Prior to grant award and/or loan closing, the applicant must submit a completed storm water grant/loan application to the department. The following documents must be submitted and approved by the department prior to construction advertising. Some documents may be waived by the department on a case-by-case basis if it is determined they are not needed for that project:

(A) The following documents are required for a project which includes design and construction:

1. Construction plans, specifications and design criteria;

2. A storm water management plan prepared according to the requirements of subsection (3)(E);

3. Certification by the applicant that—

A. The facilities, when completed, will be owned, operated and maintained by a political subdivision eligible under subsection (3)(A) of this rule; or

B. Evidence of a permanent easement and legal authority to ensure operation and maintenance of the facility;

4. Certification by the applicant that contract documents and construction bidding will conform to relevant local and state laws;

5. Certification by the applicant that all necessary easements and land have been or will be obtained prior to construction start;

6. Certification by the applicant that the applicant will construct the project or cause it to be constructed to final completion in accordance with the certified plans and specifications; and

(B) The following documents must be submitted for all storm water grant/loan projects including grants/loans for planning:

1. Certification by the applicant that all state storm water funds will be expended solely for carrying out the approved project;

2. Certification by the applicant that a registered professional engineer has been selected and will perform the services required in section (9) of this rule;

3. Certification by the applicant that the local match is available; and

4. Certification by the applicant that any required section 404 dredge and fill permits from the United States Army Corps of Engineers or land disturbance permits from the department will be obtained prior to construction.

(5) Eligible Project Costs. Eligible costs include the following:

(A) Costs for development of a comprehensive storm water control plan meeting the requirements of subsection (3)(E);

(B) An allowance for engineering services for planning and design or invoiced amounts for a contracted engineering consultant. If these services are performed by force account, the cost will only be reimbursed by the allowance. If these services are provided by a contracted consultant, the costs may be invoiced or the allowance may be requested. The allowance for planning and design will be based on a percentage of the eligible construction, land, equipment, materials and supply costs identified in the bid documents or purchase contracts as determined from Table 1 or 2 as applicable.

Construction Cost	Allowance As a Percentage of Construction Cost*
\$ 100,000 or less	14.49
\$ 120,000	14.11
\$ 150,000	13.66
\$ 175,000	13.36
\$ 200,000	13.10
\$ 250,000	12.68
\$ 300,000	12.35
\$ 350,000	12.08
\$ 400,000	11.84
\$ 500,000	11.46
\$ 600,000	11.16
\$ 700,000	10.92
\$ 800,000	10.71
\$ 900,000	10.52
\$1,000,000	10.36
\$1,200,000	10.09
\$1,500,000	9.77
\$1,750,000	9.55
\$2,000,000	9.37
\$2,500,000	9.07
\$3,000,000	8.83
\$3,500,000	8.63
\$4,000,000	8.47
\$5,000,000	8.20
\$6,000,000	7.98
\$7,000,000	7.81
\$8,000,000	7.66
\$9,000,000	7.52
* Interpolate between values	

Table 2—Maximum Eligible Amount Design Only

Construction Cost	Allowance As a Percentage of Construction Cost*
\$ 100,000 or less	8.57
\$ 120,000	8.38
\$ 150,000	8.16
\$ 175,000	8.01
\$ 200,000	7.88
\$ 250,000	7.67
\$ 300,000	7.50
\$ 350,000	7.36
\$ 400,000	7.24
\$ 500,000	7.05
\$ 600,000	6.89
\$ 700,000	6.77
\$ 800,000	6.66
\$ 900,000	6.56
\$1,000,000	6.43
\$1,200,000	6.34
\$1,500,000	6.17
\$1,750,000	6.05
\$2,000,000	5.96
\$2,500,000	5.80
\$3,000,000	5.67
\$3,500,000	5.57
\$4,000,000	5.48
\$5,000,000	5.33
\$6,000,000	5.21
\$7,000,000	5.12
\$8,000,000	5.04
\$9,000,000	4.96
* Interpolate between values	

(C) Costs for construction-related engineering;

(D) Construction costs including construction permits as issued by DNR;

(E) Land purchase or permanent easement costs required for storm water holding basins, grass-lined channels or for other limited structural storm water control projects, or buy-outs if the land purchased is restricted such that no permanent structure except for structures allowed under the Missouri Statewide Comprehensive Outdoor Recreation Plan (SCORP) may be constructed within the easement or purchase area. Construction costs related to holding basins on private land are eligible if the eligible applicant retains a permanent easement, is legally responsible for operation and maintenance of the facility, and the basin constructed is clearly for storm water control and not recreational use;

(F) Costs of force account work for planning, design, construction and construction engineering;

(G) Demolition costs of structures located within storm water control areas provided



future development of permanent structures in the storm water control area is restricted;

(H) Local cost of issuance and capitalized interest incurred on loans administered under this rule;

(I) Construction costs incurred prior to grant/loan award or DNR letter of commitment are eligible providing the planning and design phases of the project were reviewed and approved by the department prior to the final construction payment;

(J) Planning and design costs incurred prior to grant/loan award or DNR letter of commitment are eligible providing—

1. The planning and design phase is for a facility to be constructed with funds administered by this rule, or is a comprehensive city-wide plan; and

2. Costs associated with paragraph (5)(J)l. were incurred in whole or in part during State Fiscal Year 1999;

(K) Up to five (5) sequential years of grant and/or loan funding may be used for the same project as long as the contract is awarded within the time frame necessary to receive the first grant and/or loan of the sequence the recipient certifies that there are adequate funds committed from other sources to complete the construction; the recipient commits to the original funding combination for the entire sequence of grants and/or loans; and that the recipient certifies that the project will be completed with or without the subsequent year's grant/loan funds. No more than ninety percent (90%) of each annual grant will be paid until the final construction is complete and acceptable final inspection conducted by the department. Final grant payment will equal the balance of all grants in the sequence up to fifty percent (50%) of the final eligible project costs;

(L) Costs associated with minimizing storm water damage to sink holes; and

(M) Costs not included in subsections (5)(A)–(L) are eligible if determined by the department to be reasonable and necessary for the project.

(6) Ineligible Project Costs. Ineligible costs include, but are not limited to, the following:

(A) Projects which divert storm water to sinkholes or which modify sinkholes to increase storm water capacity;

(B) Local government administration or legal costs, including appraisals;

(C) Land purchase or easement costs other than those listed in subsection (5)(E);

(D) Finance costs, including capitalized interest, for the local share to match the storm water grant if the local share is not a loan obtained through the department, or interest costs during construction;

(E) Items related to photographing or filming; and

(F) Permits required for the ongoing operation of the constructed facility(ies).

(7) Grant Amount. The maximum grant is limited to fifty percent (50%) of the total eligible project costs or available funds, whichever is less. The recipient must provide the remaining amount needed to complete the project through a storm water loan administered by the DNR or other source of funds. Grants may be matched with other state or federal grants up to one hundred percent (100%) of the eligible project costs.

(8) Loan Amount. Loans will be available in an amount up to one hundred percent (100%) of eligible project costs. Loans may be matched with state or federal grants. However, in no case will the total government assistance exceed one hundred percent (100%).

(9) Engineering Requirements.

(A) A registered professional engineer must prepare the storm water plan and/or design all plans and specifications for competitive bidding and compliance with generally accepted storm water design criteria.

(B) A registered professional engineer or a person under the direction and continuing supervision of a registered professional engineer must provide inspection of construction for the purpose of assuring compliance with the approved plans and specifications.

(10) Bidding Requirements. This section applies to procurement of construction equipment, supplies and construction services in excess of twenty-five thousand dollars (\$25,000) awarded by the recipient for any storm water project other than costs directly related to force account work.

(A) Each contract shall be awarded after formal advertising.

(B) Contract award shall be to the lowest responsive and responsible bidder.

(C) Departmental concurrence with contract award must be obtained prior to the actual contract award if fewer than three (3) bidders submit bids or if the recipient wishes to award the contract to other than the low bidder. The recipient shall forward the tabulation of bids and a recommendation of contract award to the department for review. Executed contract documents must be submitted prior to the first grant payment.

(11) Grant Payments.

(A) For projects utilizing one year's funding which include construction and whose grants are not matched with loans from this

program, payments will be made in no more than five (5) installments.

1. For grant awards which include planning, design, and construction in the project scope, the first payment will be made for engineering planning and design with submission of the final invoiced amount or request for allowance, on the reimbursement form provided by the department.

2. The next three (3) payments may be made when not less than twenty-five percent (25%), fifty percent (50%), and ninety percent (90%) of the construction of the project is completed. Payment must be requested on the form provided by the department and submitted with sufficient documentation. Reimbursement amounts shall be based upon percentage of the grant funds remaining after the first reimbursement is deducted. Projects which include planning only, grant payments will be made in the three (3) installments listed in this subsection based upon invoiced amount.

3. A final payment may be made when the project is completed and a final inspection is conducted by the department or approval obtained for the management plan.

(B) For projects which include basin planning only and whose grants are not matched with loans from this program, reimbursement will be made at 25, 50, 90 and 100% of plan completion as evidenced by invoices.

(C) Payments at no time shall exceed fifty percent (50%) of the eligible project cost incurred at the time payment is requested.

(D) Any cost of work completed after the final inspection by the department shall not be considered as part of the eligible project cost.

(E) An audit to verify eligible project costs will be made at the time of final payment and the grant adjusted downward, if necessary, to reflect actual costs.

(12) Loan Requirements.

(A) Loans shall be administered in accordance with the provisions in 10 CSR 20-4.041 or 10 CSR 20-4.042 with exception that final payment will be made only after the project is completed and a final inspection is conducted by the department.

(B) Loans must be secured with an acceptable debt instrument including revenue or general obligation bonds or debt issued pursuant to Environmental Improvement and Energy Resources Authority's (EIERA) SRF program policy on annual appropriation-backed debt. Other financing securities will be reviewed on a case-by-case basis. Tax Increment Financing (TIF) security structures will not be considered. Loans must be amortized over twenty (20) years or less from loan

closure. Repayment must begin within one (1) year of loan closing.

(C) The commission may direct that existing and/or future loans be leveraged through the Environmental Improvement and Energy Resources Authority.

(D) Loan payments will be made no more frequently than monthly. Grants matched by loans under this program will be paid simultaneously with loan payments.

(13) Repayment of Grant. Repayment of the grant is required if the applicant fails to obtain and meet reporting requirements of all DNR permits for all facilities owned by the recipient. The grant may also be required to be repaid at a straight line depreciated rate if the facilities constructed with grant funds are sold to private ownership.

AUTHORITY: sections 644.026 and 644.031, RSMo Supp. 1998. Original rule filed June 9, 1999, effective March 30, 2000.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995 and 644.031, RSMo 1977, amended 1989, 1995, 1999.*

10 CSR 20-4.070 Sales Tax Exemption

PURPOSE: This rule sets forth the system used by the commission to determine eligibility for sales tax exemption for items purchased for the purpose of preventing or abating water pollution control.

(1) Eligible Applicants. Individuals, contractors, corporations, industries, or public entities constructing or purchasing equipment for treatment of wastewater in Missouri may apply for sales tax exemption certification.

(2) Application Process. Sales tax exemptions for wastewater treatment equipment and supplies shall be requested on the application form provided by the Department of Natural Resources (DNR). The application shall be submitted to the Department of Natural Resources, Water Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102.

(3) Approval or Denial of Certification. The department will review the application and approve or deny the sales tax exemption request. If approved, the department will notify the Missouri Department of Revenue which will forward a Missouri Sales/Use Tax Exemption for Pollution Control certification to the applicant. If the application is denied, the department shall send written notice to the applicant. Applicants who are denied a sales tax exemption shall have a period of thirty (30) days from the issuance date of the notice of denial to file a written appeal of the

denial to the Missouri Clean Water Commission, P.O. Box 176, Jefferson City, MO 65102, see 10 CSR 20-6.020(4) and (5).

(4) Except as specified in section (5), machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials or supplies solely required for the installation or reconstruction of such shall be eligible for sales tax exemption if they also meet one (1) of the criteria listed in subsection (4)(A), (B) or (C):

(A) The machinery, equipment, appliances or device is a portion or all of a water pollution control facility required or authorized by a permit, letter of authorization, enforceable agreement with the owner, or court order under authority of Chapters 640 and 644, RSMo and the implementing regulations;

(B) The machinery, equipment, appliances or device is a portion or all of a facility pre-treating wastewater prior to its discharge into central sewers; or

(C) Individual home treatment systems and components thereof.

(5) With the exception of those activities specified under (4)(A) above, the machinery, equipment, appliances or devices listed below are not eligible for water pollution control sales tax exemptions.

(A) Landfill liners, caps, leachate collection and treatment systems, and closure costs.

(B) Leak detection and containment devices and site remediation for underground storage tanks and aboveground storage tanks.

(C) Machinery, equipment, appliances or devices which conserve soil, protect soil from contamination, or which prevent migration of contaminated soils or soil contaminants.

(D) Storm sewers.

(E) Potable water systems or components thereof with the exception of sludge treatment facilities.

AUTHORITY: sections 144.030 and 644.026, RSMo Supp. 1997 and 144.062, RSMo 1994. Original rule filed Nov. 3, 1997, effective July 30, 1998.*

**Original authority: 144.030 RSMo, 1939 amended 1941, 1943, 1945, 1949, 1961, 1965, 1967, 1969, 1977, 1979, 1980, 1982, 1983, 1985, 1986, 1988, 1989, 1991, 1994, 1995, 1996, 1997; 144.062, RSMo 1988, amended 1994; and 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995.*