



Discussion of Proposed Amendment to 10 CSR 20-6.010 Construction & Operating Permits - Item (J) (1)(D)

From Jesse Stephens <JStephens@bcrsd.com>

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To Jesse Stephens <JStephens@bcrsd.com>

Dear Board of Trustees,

Attached is a highlighted version of a draft rule under consideration by MoDNR to revise some of the language in the state statute that affects Construction and Operating Permits along with the Tier 2 Authority Process. I've highlighted some of the changes of interest, but below is a summary of changes that may impact BCRSD:

1. The term "Continuing" Authority is being replaced with the term "Responsible" Authority throughout the rule.
2. While BCRSD would remain a level 2 authority, levels 3,4, and 5 are being consolidated all into level 3, meaning that private companies, individuals, homeowners associations etc. are now level 3 authorities.
3. Some of the exemption language for a waiver of Tier 2 authority has changed. The numerical limit of 120% has been removed as condition of what is economically feasible, and replaced with subjective criteria.
4. Language has been added to clarify the process for reviewing, approving, and updating Tier 2 Authority plans.

Chris and I have reviewed the document and would like to discuss the implications of this with you.



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

PROPOSED AMENDMENT

10 CSR 20-6.010 Construction and Operating Permits

PURPOSE: This amendment revises the term “continuing authority” to “responsible authority” and revises the implementation of the responsible authority regulations and requirements. This amendment also provides revisions throughout to add additional clarity and consistency within the rule.

PURPOSE: This rule sets forth the requirements and process of application for construction and operating permits, and the terms and conditions for the permits. This rule also clarifies the requirements of the permit program, improves its administration, and brings the program in compliance with the latest federal regulations, 44 FedReg 32.854 (1979).

(1) Permits—General.

(A) All persons who build, erect, alter, replace, operate, use, or maintain existing point sources, or intend these actions for a proposed point source, water contaminant sources, or wastewater treatment facilities shall apply to the Missouri Department of Natural Resources (department) for the permits required in accordance with sections (5) and (7) of this rule, the Missouri Clean Water Law and regulations. The department issues these permits to enforce the Missouri Clean Water Law and regulations and administer the National Pollutant Discharge Elimination System (NPDES) Program.

(B) The following are exempt from permit regulations:

1. Nonpoint source discharges;
2. Service connections to wastewater collection systems;
3. Internal plumbing, piping, water diversion, or retention structures that are an integral part of an industrial process, plant, or operation, except to the point wastewater is conveyed to receiving water;
4. Routine maintenance or repairs of any existing collection system, wastewater treatment facility, or other water contaminant or point source;
5. Onsite systems for single family residences;
6. The discharge of water from an environmental emergency cleanup site under the direction of, or the direct control of, the department or the Environmental Protection Agency (EPA), provided the discharge does not violate any condition of 10 CSR 20-7.031 Water Quality Standards;
7. Water used in constructing and maintaining a drinking water well and distribution system for public and private use, geologic test holes, exploration drill holes, groundwater monitoring wells, and heat pump wells;

8. Projects for beneficial use, that do not exceed a period of one (1) year, may be exempted by written project approval from the department. The department may extend the permit exemption for up to one additional year./.];

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

10. Hydrostatic testing. Persons discharging water used for the hydrostatic testing of new pipelines and storage tanks in the state of Missouri may discharge to waters of the state without first obtaining a permit if the discharge is *de minimis* (less than one thousand (<1,000) gallons) or meeting the requirements in section (14) of this rule;

11. *[Nondischarging]***No-discharge** facilities for domestic wastewater flows of three thousand gallons per day (3,000 gpd) or less; and

12. Agrichemical rinsates and any spilled or recovered fertilizers and pesticides that are field applied at rates compatible with product labeling.

(C) Permittees may pursue integrated planning to facilitate the use of sustainable and comprehensive solutions.

(2) *[Continuing]*Responsible Authorities for Permitting.****

(A) Each application for a construction permit or **Missouri state operating permit** *[operating permit]* shall identify the person, as that term is defined in section 644.016(*/15/19*), RSMo, that is the owner of, operator of, or area-wide management authority for a water contaminant source, point source, wastewater treatment facility, *[or]* sewer collection system, **or permitted activity, that is responsible for compliance with all permit conditions.** This person shall be designated as the *[continuing]***responsible** authority and shall sign the **permit** application. By doing so, the person designated as the *[continuing]***responsible** authority acknowledges responsibility for compliance with all permit conditions. *[Industrial stormwater permits, industrial no-discharge permits, and construction stormwater permits are exempt from the higher-level continuing authority requirements in this rule.]*

(B) [Continuing authorities are listed in preferential order in the following paragraphs. A level three (3), four (4), or five (5) applicant may constitute a continuing authority by showing that the authorities listed under paragraphs (B)1.–2. of this rule are not available; do not have jurisdiction; are forbidden by state statute or local ordinance from providing service to the person; or that it has met one of the requirements listed in paragraphs (2)(C)1.–7. of this rule.] A level one (1) authority, level two (2) authority, or a level three (3) authority with an ordinance requiring connection or prohibiting independent systems may qualify as the responsible authority for a Missouri state operating permit within the area of its approved plan or jurisdiction in place of the permit applicant, unless the permit applicant shows that it meets one of the applicability exemption criteria in subsection (2)(C). The potential responsible authority must submit a written request during the public participation process set forth in 10 CSR 20-6.020(1) to be the responsible authority for a permit for which they are not the permit applicant. Industrial stormwater permits, industrial no-discharge permits, municipal stormwater permits, construction stormwater permits, and applicants who meet any of the applicability exemption criteria in subsection (2)(C), are exempt from the responsible authority preferences in this rule.

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

2. Level 2 [A]authority. A municipality, public sewer district, or governmental entity which currently provides wastewater collection and/or treatment services on a regional or watershed basis as outlined in section (2)(F) of this rule and approved by the Missouri Clean Water Commission;

3. Level 3 [A]authority. A level 3 authority is -

A. A municipality, public sewer district, sewer company regulated by the Public Service Commission (PSC) other than one that qualifies under paragraph (2)(B)1. or 2. of this rule, or a public water supply district. A responsible authority regulated by PSC must submit a certificate of convenience and necessity from the PSC with the permit application;

B. Any person, industry, group of persons contractually obligated to collectively act as a wastewater collection and treatment service, or nonprofit company organized under section 393.825, RSMo, if the person, industry, group of persons, or nonprofit company has complete control of and responsibility for the water contaminant source, point source, or wastewater treatment system, and not including persons that qualify under subparagraph (2)(B)3.C. of this rule; or

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

(I) The association is a corporation in good standing registered with the Office of the Missouri Secretary of State;

(II) The association owns the facility and has valid easements for all sewers;

(III) The covenants running with the land of each property owner provide the authority with compliance of wastewater treatment systems including at a minimum -

- (a) The power to regulate the use of the collection system and/or the wastewater treatment facility;**
- (b) The power to levy assessments on its members and enforce these assessments by liens on the properties of each owner;**
- (c) The power to convey the facility to one (1) of the authorities listed in paragraphs (2)(B)1.–3.; and**
- (d) The requirement that members connect with the facility and be bound by the rules of the association.**

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

4. Level 4 Authority. Any person, industry, or group of persons contractually obligated to collectively act as a wastewater collection and treatment service, or nonprofit company organized under section 393.825, RSMo, with complete control of, and responsibility for the water contaminant source, point source, or wastewater treatment system.

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

- A. The association is a corporation in good standing registered with the Office of the Missouri Secretary of State;*
- B. The association owns the facility and has valid easements for all sewers;*
- C. The covenants running with the land of each property owner provide the authority with compliance of wastewater treatment systems including at a minimum:*

(I) The power to regulate the use of the collection system and/or the wastewater treatment facility;

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

(III) The power to convey the facility to one (1) of the authorities listed in paragraphs (2)(B)1.–3.; and

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

(C) Applicability Exemption. Applicants for [permits other than industrial stormwater permits, industrial no-discharge permits, and construction stormwater permits proposing use of a lower preference continuing authority when the higher level authority is available must] Missouri state operating permits may submit one (1) of the following for the department's review when a preferential authority seeks to be the responsible authority under subsection (2)(B) of this rule, provided it does not conflict with any area-wide management plan approved under section 208 of the Federal Clean Water Act or by the Missouri Clean Water Commission. Upon department review, an applicant who meets one (1) or more of the subsection (2)(C) applicability exemption criteria is exempt from following the responsible authority preferences in subsection (2)(B):

- [1. A waiver from the existing higher authority;
- 2. A written statement or a demonstration of non-response from the higher authority declining the offer to accept management of the additional wastewater;
- 3.]1. A to-scale map showing that all parts of the [legal boundary of the property]wastewater system to be connected are beyond two thousand feet (2000') from the collection system operated by [a higher preference]the preferential authority;
- 4.]2. [A proposed] An evaluation that the connection and/or adoption charges by the [higher] proposed responsible authority would create economic conditions that would [equal]be equivalent to or exceed what is economically feasible for the applicant [, which may be in the range of one hundred twenty percent (120%) of the applicant's cost for constructing or operating a wastewater treatment system];
- 5.]3. A determination that the proposed service fee on the users of the system by the [higher]proposed preferential authority [that] is above what is affordable for existing homeowners in that area [or creates an excessive burden on industrial facilities];
- 6.]4. Terms for connection or adoption by the [higher] proposed responsible authority that would require more than two (2) years to achieve full sewer service; or
- 7.]5. A demonstration that the terms for connection or adoption by the [higher]proposed responsible authority are not viable or feasible to impacted homeowners or industries in the [area]newly connected system.

[(D) The applicants for industries, shall submit a statement waiving preferential status from each existing higher preference authority, if it exists, listed in paragraphs (2)(B)1.,2., or 3. of this rule for collection and treatment of industrial, process, and domestic wastewater as part of a new operating permit application.]

([E]D) Private corporations [which]that are not incorporated under the laws of Missouri shall be represented by a registered agent in the state of Missouri before a construction permit or an operating permit will be issued to that responsible authority by the department.

([F]E) Application of Level 2 Authority. If a municipality or public sewer district wishes to provide wastewater collection and/or treatment services on a regional or watershed basis as outlined in paragraph (2)(B)2. of this rule, the entity shall—

1. Submit a preliminary request to the Missouri Clean Water Commission through the department to obtain higher authority;
2. Develop a plan, which includes, but is not limited to/-
 - A. A discussion of regional treatment service;
 - B. Capital improvements program;
 - C. Process to provide waivers when sewer connection is not available;
 - D. Approach to address permit compliance with facilities in the service area;
 - E. Community financial capability information; and
 - F. Defined service area map/./;
3. Obtain and maintain authority through ordinances to compel wastewater users and facilities to connect for management of wastewater flows. The ordinance requires the recipient to notify all potential users of service availability and that all users connect to the system within the *[timeframe]***time frame** provided in the notice of service availability. Submit a copy of the enacted ordinance/./;
4. Provide a public meeting prior to approval of the plan developed according to paragraph (2)(*[F]***E**)2. of the rule and the draft ordinance. Distribution of information and the publication of the notice of decision making should occur for at least thirty (30) days. Following the public meeting, provide a copy of the transcript, attendance log, recording, or other complete record to the department/./;
5. Submit/s/ a final request to the Missouri Clean Water Commission through the department, *[containing the fulfillment]***meeting the requirements** of paragraphs (2)(*[F]***E**)1.-4. of this rule, incorporating preliminary recommendations provided by the Missouri Clean Water Commission. **Department staff will review the plan and present recommendations to the Missouri Clean Water Commission for action;**
6. *[Staff shall review the plan and present recommendations to the Missouri Clean Water Commission for action.]***Update their plan at least once every ten (10) years for the department's approval. Updated plans shall meet the requirements of paragraphs (2)(*E*)2.-5. of this subsection and shall be made available to the public by the Level 2 authority. Existing, approved Level 2 authorities shall submit their first update within eighteen (18) months of the effective date of this rule amendment.**

(3) Antidegradation. Applicants seeking new or expanded discharges shall submit an antidegradation review request **in accordance with the requirements of 10 CSR 20-7.031(3).**

(A) Applicants may submit their request on forms provided by the department, and other information in support of the project, including, but not limited to, the following:

1. The Water Quality Review Assistance Antidegradation Review Request form, and the appropriate attachments;
2. An antidegradation report detailing the proposed project; *[and]*

3. Any additional information, evidence, documentation, technology performance information, modeling, or monitoring data consistent with the *[Antidegradation Implementation Procedure]***Missouri Antidegradation Rule and Implementation Procedure, which is incorporated by reference in 10 CSR 20-7.031(3)(D)**; and

4. The appropriate fee according to 10 CSR 20-6.011.

(B) Public comment. The department shall place a public notice of the antidegradation determination on the department's website and allow the public an opportunity to provide comments for a minimum of thirty (30) days. The antidegradation determination may be revised as a result of comments received.

(C) Notification in writing. A final determination whether the antidegradation is applicable, approved or denied shall be provided in writing to the applicant by the department.

(4) Facility Plans and Engineering Reports. Applicants seeking a construction permit shall submit a facility plan or engineering report unless otherwise designated by the department.

(A) Submit the engineering report and/or facility plan **and obtain department approval** prior to submittal of the construction permit application, including the following, as applicable:

1. A signed facility plan or engineering report. All facility plans and engineering reports are to be signed and sealed by a Missouri registered professional engineer, and contain *[the]* information in accordance with 10 CSR 20-8;

2. Identify the alternative technical manuals and design criteria utilized that are different from the design standards provided in 10 CSR 20-8.110 through 10 CSR 20-8.220;

3. Submit an electronic version (in portable document format (PDF) searchable format or department-approved equivalent) for review. To aid in review efficiency, the applicant may also submit paper copies of the documents, particularly those in large format. The department may request paper copies in addition to the electronic version;

4. For engineering reports.

A. Submit a plan of the existing and proposed sewers for projects involving new sewer systems and substantial additions to existing systems.

B. Submit a plan for projects involving construction or revision of pumping stations.

C. Provide the design basis and operating life; and

5. For facility plans.

A. Submit an approved water quality review and antidegradation evaluation or determination for all new and expanding facilities, in accordance with 10 CSR 20-7.031(3). For non-funded projects, information submitted as part of the antidegradation report does not have to be resubmitted with the facility plan.

B. Evaluate the feasibility of constructing and operating a facility with no discharge to waters of the state if the report is for a new or modified wastewater treatment facility.

C. Evaluate the economics of the project including alternatives to constructing a discharging system, including an evaluation of alternatives of wastewater irrigation or subsurface dispersal and connection to a regional wastewater treatment facility.

D. A **geohydrologic***[geohydrological]* evaluation conducted by the department's Missouri Geological Survey, for all proposed new construction, new or major modification of earthen basins, new outfall locations, wastewater irrigation fields, and subsurface dispersal sites. *[Include any recommendations provided in the geohydrological evaluation.]*

(B) Engineering reports and/or facility plans are exempt for the following non-funded projects:

1. Disinfection equipment projects for treatment types promulgated in 10 CSR 20-8.190;
2. Projects exempted from construction permitting under subsection (5)(B) of this rule;
3. Sewer extensions permitted under the general construction permit provided in subsection (5)(C) of this rule;
4. Sewer projects that submit a Missouri registered professional engineer's Sewer Extension Design Certification with the permit application; and
5. Treatment plants and/or sewer extensions by a permittee with their own authority under section (6) of this rule, if they are not receiving department funding.

(5) Construction Permits.

(A) Any person *[causing or permitting the construction, installation, or modification of]* **who installs, builds, erects, alters, or modifies** any collection system, **earthen basin**, or wastewater treatment facility shall first receive a construction permit issued by the department for any of the following activities:

1. New or modified domestic wastewater discharges;
2. New or modified surface and subsurface wastewater treatment for private or domestic wastewater treatment facilities;
3. New or modified earthen basins used for wastewater storage or treatment including industrial operations and Class I *[C]*concentrated *[A]*animal *[F]*feeding *[O]*operations;
4. Sewer extensions and/or pump stations **unless exempted by this section**; or
5. Innovative technologies for *[domestic and publicly owned]* wastewater treatment, as defined by **10 CSR 20-8.110***[10 CSR 20-8.140]*.

(B) The following activities are exempt from construction permitting when the activities meet the applicable standards in 10 CSR 20-2 through 10 CSR 20-9. Projects exempt from construction permitting may require professional engineering, as defined in section 327.181, RSMo:

1. Construction of a separate storm sewer;
2. Sewer extensions of one thousand feet (1,000') or less, including gravity sewers and/or force mains, with no more than one **(1)** pump station;
- [3. Construction of nondischarging facilities for domestic wastewater flows of three thousand gallons per day (3,000 gpd) or less;]*
- [4]3.* Class II and smaller animal feeding operations (AFO), as designated in 10 CSR 20-6.300;
- [5]4.* Nondomestic discharges of process wastewater except discharges utilizing an earthen basin;
- [6]5.* Stormwater best management practices, as defined in 10 CSR 20-6.200;
- [7]6.* Industrial facilities connecting to a publicly owned *[wastewater]* treatment **works***[facility]*;

- [8]7. Treatment facilities evaluated and constructed under other department programs;
- [9]8. Systems adding common metal salts for phosphorus removal prior to existing liquid-solids separation and tertiary filtration;
- [10]9. Adding pre-engineered dechlorination equipment;
- [11]10. Solids processing equipment;
- [12]11. Like-for-like replacement (e.g., replacing eight-inch (8") pipe with eight-inch (8") pipe at the same location and grade, but material type may be different);
- [13]12. Outfall relocation within the same receiving stream, close proximity to the existing outfall, and upon review by the department;
- [14]13. Projects *[which]as determined by the department [has determined a construction permit is not required]* through a written determination; and
- [15]14. Minor projects that change equipment or operations, but do not affect the overall capacity of the treatment or treatment type, including, but not limited to/:-

- A. Internal piping changes;
- B. pH adjustment;
- C. Addition of solids storage tanks;
- D. Screening equipment;
- E. Grit removal equipment;
- F. Administrative buildings;
- G. Fences and access roads;
- H. Flow measuring devices;
- I. Mixing equipment;
- J. Addition and/or improvement of sampling equipment;
- K. Replacement of aeration equipment; and
- L. Polymer additives.

(C) General Permits for Sewer Extension Construction. Persons may apply for a general construction permit for construction of gravity sewer line extensions, pump stations, and force mains.

(D) An applicant must submit a separate construction permit application for each collection system/ or wastewater treatment facility to the department. Where there are multiple releases from a single operating location, however, one (1) application may cover all facilities and releases. *[For continuing]Responsible authorities [listed in paragraphs (2)(B)1., 2., or 3., submit only one (1) application when the authority] that operate/s] a wastewater treatment facility and [has]have one (1) or more other noncontinuous stormwater discharges associated with the facility **may submit only one (1) application.***

(E) Demonstration Projects. Demonstration and pilot projects are **used to validate** innovative processes for which minimum design criteria is not well established. Demonstration or pilot projects shall be approved by the department prior to implementation of the new technology process or equipment.

1. Pilot project installations are those whose discharge is returned to the existing treatment facility. They are installed for a period of one (1) year and are exempt from obtaining a construction permit after obtaining department approval of the project evaluation. Refer to paragraph (1)(B)8. of this rule.

A. The project evaluation requirements are identified in 10 CSR 20-8.110(6). Pilot project installations are temporary and coordinated to ensure water quality is protected.

2. A demonstration project installation is a full-scale innovative technology process. All antidegradation, operating permit, and construction permitting requirements apply.

A. Full-scale demonstration projects in Missouri are not exempt from antidegradation or permit requirements.

B. The treatment process must be based on reasonable and sound engineering principles. Include a project evaluation of a technical performance demonstration of treating pollutants of concern in Missouri or locations with a climate similar to Missouri. The expected project evaluation details are outlined in 10 CSR 20-8.110(6) including review of design criteria.

C. An operating permit modification depends on the nature of the treatment process and will be determined during project review of the facility evaluation or plan.

3. The technology remains a demonstration process until documentation verifies consistent **successful** performance as designed for treatment of pollutants of concern for twelve (12) consecutive months at three (3) sites in Missouri or locations with a climate similar to Missouri. Design subsequent installations of verified treatment processes based on established design criteria.

(F) An applicant must submit an application for a construction permit to the department at least one hundred eighty (180) days for a wastewater treatment facility or sixty (60) days for collection system projects in advance of the date on which construction begins.

(G) An application for a construction permit shall be made on forms provided by the department and **the submittal shall** include the following items:

1. A construction permit application form signed—

A. For a corporation **or limited liability company**, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by a delegated individual having overall responsibility for environmental matters at the facility;

B. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or

C. For a municipal, state, federal, or other public facility, by either a principal executive officer or by a delegated individual having overall responsibility for environmental matters at the facility;

2. Appropriate permit fee according to 10 CSR 20-6.011;

3. An electronic copy of the construction permit application and the information listed below in portable document format (PDF) searchable format or department approved equivalent. To aid in review efficiency, the applicant may also submit paper copies of the documents, particularly those in large format. The department may request paper copies in addition to the electronic version;

4. An approved water quality review and antidegradation evaluation or determination for all *[new and expanding facilities]***proposals requiring an antidegradation review**, in accordance with 10 CSR 20-7.031(3);

5. A summary of design, **signed, sealed, and dated by a Missouri registered professional engineer, that contains information in accordance with 10 CSR 20-8**;

6. Detailed engineering plans, *[and technical specifications]* signed, sealed, and dated by a Missouri registered professional engineer, *[which]* **that** contain *[the]* information in accordance with 10 CSR 20-8, or other regulations as applicable;

7. Detailed technical specifications, signed, sealed, and dated by a Missouri registered professional engineer, that contain information in accordance with 10 CSR 20-8, or other regulations as applicable;

[7]8. A map showing the location of all outfalls **and permitted features**, with scale, as well as a process flowchart indicating *[each]* **the contributing process** *[which contributes to an outfall]* **to each outfall and permitted feature**; and

[8]9. Other information necessary to determine compliance with the Missouri Clean Water Law and these regulations as required by the department.

(H) If an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

1. Applicants who fail to satisfy all department technical comments **in a time frame established by the department**, after two (2) *[certified comment letters, in a time frame established by the department]***comment letters or emails with receipt confirmed**, may have the application returned as incomplete and shall forfeit the construction permit application fees.

2. The department shall act after receipt of all documents and information necessary for a properly completed application, as listed in subsection (5)(G) of this rule above and including appropriate filing fees, and other supporting documents as necessary, by either issuing or denying the construction permit.

3. The applicant may submit a written request that additional time is needed prior to the conclusion of the set time frame. The department shall grant reasonable time extensions.

(I) Notification in writing. A final determination whether the construction permit is approved, approved with conditions, or denied with reason, shall be provided in writing to the applicant by the department within one hundred eighty (180) days.

(J) Construction permits shall expire two (2) years from the date of issuance unless the permittee notifies the department within their application of the necessity for a longer construction period or the permittee applies for an extension.

1. Submit requests for construction permit extension thirty (30) days prior to expiration. If there are changes, the department may require the applicant to apply for a new construction permit.

(K) The minimum design standards requirements set forth in 10 CSR 20-8 do not preclude the department or the applicant from utilizing other published technical design guides during the application review process to ensure effluent limitations can be met. The department may request additional information and engineering justification to determine the facility's ability to meet effluent limits.

(L) Issuance of a construction permit does not constitute a guarantee by the department that the finished wastewater treatment facility will meet specified effluent limitations.

(M) A site-specific operating permit application and appropriate modification fee []shall be submitted with the construction permit application to allow for public participation prior to the issuance of a construction permit. An operating permit application and modification fee is not required with the construction permit application *[if]*when—

1. Effluent limits and permit conditions have been established and the public notice and comment procedures were []previously completed as part of an operating permit renewal;
2. *[Effluent limits were established as part of the Antidegradation Review and the]The* required public notice and comment procedures were *[afforded in accordance with subsection (3)(B) of this rule]completed as part of the antidegradation review;*
3. No new effluent limits and conditions *[are]* need~~ed~~ to be established in the existing operating permit, such as a facility description change; or
4. Applicant is seeking a **new** general permit.

(N) The owner, owner's designee, or the professional engineers shall certify a project is complete or substantially complete, with the submittal of a Statement of Work Completed form.

1. *[If the project differs from the originally submitted plans and specifications,] [s]Submit as-built plans, clearly showing the alterations, upon department request/ at the completion of the work].*

2. A representative of the department may inspect the completed work in order to determine that the completed work substantially adheres to the submitted engineering plans, technical specifications, Missouri Clean Water Law, and Missouri Clean Water Commission regulations.

(6) Supervised Programs.

(A) Applicability. *[Continuing]***Responsible** authorities *[listed in paragraphs (2)(B) 1., 2., or 3.]*with at least one (1) existing wastewater treatment facility with a design flow one million gallons per day (1 MGD) may be granted supervised program approval by the department. *[]Supervised* program approval exempts the permittee from the construction permit requirements for collection system and treatment plant works.

1. For collection system approval, the program solely applies to sanitary and/or combined sewer lines and appurtenances within a defined boundary under the *[continuing]***responsible** authority's control that ultimately discharges to a wastewater treatment facility owned by the same *[continuing]***responsible** authority.

2. For treatment plant approval, the program solely applies to *[continuing]responsible* authorities conducting their own construction that is funded by the entity, in lieu of submitting plans and specifications for expansion or modification of existing treatment facilities. *[Continuing]Responsible* authorities desiring treatment plant approval must also have a collection system authority approved by the department.

3. If a project is receiving funding from the department under 10 CSR 20-4, the department may require the *[continuing]responsible* authority to obtain a construction permit in compliance with 10 CSR 20-4 and 10 CSR 20-8.

4. If the facility is in noncompliance with the Missouri Clean Water Law, this may be reason for denial, suspension, or termination of the supervised program approval.

(B) Request Submittal. Authorities requesting supervised program approval may submit a request to the department with the following information regarding the system, treatment plant, capacity, and current procedures. The department shall review the request, supporting documentation, and may ask for additional information if necessary to determine compliance with the Missouri Clean Water Law and these regulations. The department shall inform the permittee in writing of its decision. Approval may be granted for a period of up to five (5) years in the applicant's operating permit.

1. General *[I]information* *[S]submittal**[:]*-

A. A statement that the *[continuing]responsible* authority employs or contracts a sufficient number of Missouri registered professional engineers and other staff qualified to review plans, issue permits, prepare reports, inspect construction, and enforce local and state requirements for each sewer extension and treatment plant project. If the *[continuing]responsible* authority engages outside firms, provide a copy of the minimum responsibilities and expectations of the consulting engineer and what oversight the *[continuing]responsible* authority will have. Reviews must be independent of the designer to avoid conflicts of interest;

B. A statement that the *[continuing]responsible* authority employs or contracts a sufficient number of persons qualified to supervise construction or that the *[continuing]responsible* authority has enforceable ordinances which require construction supervision and subsequent certification by a Missouri registered professional engineer;

C. A statement on how the *[continuing]responsible* authority maintains permanent records of approvals, sewer extensions, and treatment plant construction project and the retention policy for reports and project documentation; and

D. A copy of the procedures followed in reviewing, approving, and inspecting the construction of collection systems by others and for handling the design and construction of collection systems to be built by its own staff or contractors delineating the responsibilities between the designers and the reviewers must be present.

2. For *[C]collection* *[S]system* *[A]approval*, applicants shall submit the following information:

A. Standard technical specifications and typical detail drawing, prepared, signed, and sealed by a Missouri registered professional engineer, in accordance with 10 CSR 20-8.110. Standard technical specifications and detail drawings complying with 10 CSR 20-8.120 through 10 CSR 20-8.130, and all other necessary appurtenances;

B. An engineering report discussing the remaining capacity of the existing collection system, including each pump station, and the available capacity of the wastewater treatment facility serving each area. Refer to 10 CSR 20-8.110(4);

C. A current layout map, or maps, of the collection system showing street names, sewer line material types, sizes, and lengths, manholes, pump stations, force mains, air release valves, and other sewer appurtenances as necessary, or a detailed description of the *[continuing]***responsible** authority's mapping system and the procedures for updating the system; **and**

D. A copy of the enacted ordinance enforcing the standard technical specifications and typical detail drawings.

3. For *[T]*treatment *[P]*plant *[A]*approval, applicants shall submit the following information:

A. A copy of procedures to be followed in reviewing, approving, and inspecting the construction of wastewater treatment facilities by others and for retaining as-built plans following completion of the project, prepared by a Missouri registered professional engineer, in accordance with 10 CSR 20-8.110;

B. A facility plan discussing existing treatment plant(s), along with a summary of design discussing the remaining capacity of each existing wastewater treatment facility. Refer to 10 CSR 20-8.110(5);

C. Standard specifications and typical appurtenance construction details; **and**

D. Following completion of the project, retain as-builts to be available for review, upon request.

(C) Operating Permit. Supervised program approval shall be granted through the applicant's operating permit for a period of up to five (5) years. The operating permit may contain additional reporting requirements including, but not limited to, a summary report for an approved period.

1. Treatment plant authority.

A. Antidegradation. Submittal and approval of an antidegradation review is required prior to any construction that will increase facility capacity, add or increase pollutants of concern, or change receiving stream. Refer to section (3) of this rule.

B. Operating Permit Modifications. Submit applications for operating permit modifications, when applicable, at least one hundred eighty (180) days before the date the facility begins to receive wastewater, unless permission for a later date has been granted by the department.

C. Technologies not established or discussed in 10 CSR 20-8 are not allowed for the Treatment Plant Approval.

(D) Summary Report. A report summarizing the construction activities will be contained in the operating permit application renewal for reauthorization.

1. For facilities with Collection System approval:

A. Name of sewer extension;

- B. Length of sewer and force main;
- C. Capacity of each new or upgraded pump station, if applicable;
- D. Date sewer extension permit is issued;
- E. Date sewer extension construction is accepted;
- F. The ultimate receiving wastewater treatment facility;
- G. The remaining long term average capacity of each wastewater treatment facility; and
- H. Upon request, detailed project information on design flow, leakage, deflection, and inspections.

2. For facilities with Treatment Plant approval:

- A. The projects planned, ongoing, or completed;
- B. The remaining long-term average capacity of each treatment facility;
- C. As-builts for new or expanded treatment facilities; and
- D. Documentation and engineering justification of new or expanded treatment facilities of design components, which at a minimum meet the requirements in 10 CSR 20-8, Minimum Design Standards.

(E) Reauthorization. A request for reauthorization must be submitted at least one hundred eighty (180) days prior to expiration reaffirming (6)(B) of this rule. The department may conduct a site visit to review the request and summary report prior to reauthorization.

(7) Operating Permits.

(A) Persons who *[build, erect, alter, replace,]* operate, use, or maintain any water contaminant source, point source, or wastewater treatment facility *[which]***that** discharges to waters of the state shall obtain an operating permit from the department before any discharge **or regulated land application** occurs. The operating permit shall be issued to the owner **or operator of the permitted activity**, and *[continuing]***responsible** authority. *[Nondischarging]***No-discharge** facilities for the treatment or *[disposal]***removal** of wastes, wastewater, or residuals shall obtain permits as provided in 10 CSR 20-6.015.

(B) Applications.

1. An application for an operating permit must be submitted on forms provided by the department. The applications may be supplemented with copies of information submitted for other federal or state permits. The application **submittal** shall include~~:/~~-

- A. A map showing the location of all outfalls, with scale, as well as a flowchart indicating each process which contributes to an outfall;
- B. Appropriate permit fee according to 10 CSR 20-6.011;
- C. An antidegradation *[review]***preliminary determination** for new and expanding discharging facilities;
- D. A geohydrologic~~/all~~ evaluation conducted by the department's Missouri Geological Survey for new and expanded facilities;
- E. If appropriate, a variance petition, with the information detailed in section (15) of this rule; *[and]*

F. *[Engineering]***An engineering certification, signed, sealed, and dated by a Missouri Registered Professional engineer**, that the project was designed to meet the requirements of 10 CSR 20-8 for projects exempted from construction permitting requirements in section (5) of this rule.*]*; and

G. **If applicable, the integrated management plan or nutrient management plan developed by the applicant to address infrastructure needs and permitting timelines.**

2. All applications must be signed as follows:

A. For a corporation **or limited liability company**, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by an individual having overall responsibility for environmental matters at the facility;

B. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or

C. For a municipal, state, federal, or other public facility, by either a principal executive officer or by an individual having overall responsibility for environmental matters at the facility.

[3. The permittee shall provide written notice to the department as soon as possible of any planned physical alterations or additions to the permitted wastewater treatment facility.]

(C) Applications for renewal of site-specific operating permits must be received at least one hundred eighty (180) days either before the expiration date of the present site-specific operating permit or the date the facility begins to receive wastewater unless permission for a later date has been granted by the department. The department shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

(D) For facilities seeking coverage under a general operating permit, the application for renewal shall be submitted according to section 644.051.*[/10]16*, RSMo.

(E) Separate operating permits may be required for land application fields in different department regions at the department's discretion.

[(E)](F) All reports required by the department shall be submitted and signed by a person designated in paragraph (7)(B)2. of this rule or a duly authorized representative, if—

1. The representative so authorized is responsible for the overall operation of the facility from which the discharge occurs; and

2. The authorization is made in writing by a person designated in paragraph (7)(B)2. of this rule and is submitted to the department.

(8) Terms and Conditions of Permits.

(A) The following shall be incorporated as terms and conditions of all permits:

1. All discharges and solids *[disposal]***removal** shall be consistent with the terms and conditions of the permit;

2. The permit may be modified or revoked after thirty (30) days' notice for cause including, but not limited to, the following causes:

A. A violation of any term or condition of the permit;

B. A misrepresentation or failure to fully disclose all relevant facts in obtaining a permit;

C. A change in the operation, size, or capacity of the permitted facility; and

D. The permit may be modified after proper public notice and opportunity for comment when a wasteload allocation study has been completed showing that more stringent limitations are necessary to protect the in-stream water quality;

3. The permit may not be modified so as to extend the term of the permit beyond five (5) years after its issuance;

4. Permittees shall operate and maintain facilities to comply with the Missouri Clean Water Law and applicable permit conditions and regulations.

5. The permittee, owner, and *[continuing]responsible* authority shall allow the department or an authorized representative (including an authorized contractor acting as a representative of the department), upon presentation of credentials to, at reasonable times—

A. Enter upon permittee's premises in which a point source, water contaminant source, or wastewater treatment facility is located or in which any records are kept according to the terms and conditions of the permit;

B. Have access to, or copy, any records that are kept according to the terms and conditions of the permit;

C. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under a permit; and

D. Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or Missouri Clean Water Law, any substances or parameters at any location.

6. If the permit is for a discharge from a publicly/-/owned treatment works, the permittee shall give adequate notice to the department of the following:

A. Any new introduction of pollutants into the treatment facility from an indirect discharger which would be subject to Sections 301 or 306 of the Federal Clean Water Act if it were directly discharging those pollutants;

B. Any substantial change in the volume or character of pollutants being introduced into that treatment facility at the time of issuance of the permit; and

C. For purposes of this subparagraph, adequate notice includes information on the following:

(I) The quality and quantity of influent introduced into the treatment facility, and

(II) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the treatment facility;

7. If the permit is for a discharge from a publicly/-/owned treatment works, the permittee shall be able to identify any introduction of pollutants or substances into the facility that alone or in combination will cause/—/disruption of the treatment processes, violation of effluent standards in their operating permit, violation of water quality standards in the receiving stream as defined in 10 CSR 20-7.031, or classification of the residues of the treatment processes as hazardous waste as defined in 10 CSR 25-4.010. In addition, the permittee shall require any industrial user of the treatment facility to comply with the requirements of 10 CSR 20-6.100;

8. If a toxic effluent standard, prohibition, or schedule of compliance is established under Section 307(a) of the Federal Clean Water Act for a toxic pollutant in the discharge of permittee's facility and the standard is more stringent than the limitations in the permit, then upon notice to the permittee the more stringent standard, prohibition, or schedule shall be incorporated into the permit as a condition; and

9. When a *[continuing]* **potential responsible** authority under paragraph (2)(B)1.*[,]* **or 2.*[, or 3.]*** is expected to be available for connection, **unless an exemption under subsections (2)(B) or (2)(C) applies**, any operating permit issued to a permittee under this paragraph, located within the service area of the paragraph (2)(B)1.*[,]* **or 2.*[, or 3.]*** facility, shall contain the following special condition: Permittee shall cease discharge by connection to a facility with an area-wide management plan according to subsection (2)(B) of this rule within the *[timeframe]***time frame** allotted by the *[continuing]***responsible** authority with its notice of its availability. The permittee shall obtain departmental approval for closure according to section (12) of this rule or alternate use of these facilities.

(B) The permit shall contain effluent limitations, monitoring requirements, and terms and conditions necessary to assure compliance with the Clean Water Law, related regulations or policies of the Missouri Clean Water Commission.

(9) Prohibitions. No permit shall be issued in the following circumstances:

(A) Where the terms and conditions of the permit do not comply with applicable guidelines or requirements, the Missouri Clean Water Law and Clean Water Commission regulations, or the Federal Clean Water Act and federal regulations;

(B) Where the EPA regional administrator has properly objected to the issuance of a permit;

(C) Where the permit conditions cannot ensure compliance with the applicable water quality requirements of all other affected states;

(D) Where anchorage and navigation would be substantially impaired based on the *[judgement]***judgment** of the *[US]* **United States** Army Corps of *[Engineer's]***Engineers'** district engineer;

(E) For the discharge of any radiological, chemical, or biological warfare agent or high level radioactive waste;

(F) For any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the Federal Clean Water Act; or

(G) To a facility which is a new source or a new discharger, if the discharge from the construction or operation of the facility shall—

1. Cause or contribute to the violation of water quality standards if the discharge is located in a segment that was an effluent limitation segment, prior to the introduction of the discharge from the new source or discharger; or

2. Exceed its pollutant load allocation if the discharge is into a water quality limited segment.

(10) Operating Permit Renewal and Expiration Dates.

(A) Missouri *[S]*state operating permits may be issued for a period not to exceed five (5) years.

(B) Whenever a release or a potential for release from a point source, water contaminant source, or wastewater treatment facility is permanently eliminated, the existing operating permit will be terminated.

(C) Continuation of Expiring Permits.

1. The terms and conditions of an expired permit are continued automatically pending issuance of a renewed operating permit if—

A. The permittee submitted a timely and sufficient application for a renewed operating permit under this rule; and

B. The department is unable, through no fault of the permittee, to issue a renewed operating permit before the expiration date of the previous permit.

2. Permits continued under paragraph (10)(C)1. remain fully effective and enforceable.

(11) Permits Transferable.

(A) Subject to subsection (2)(A), a construction permit and/or operating permit may be transferred upon submission to the department of an application to transfer signed by the existing owner and/or *[continuing]responsible* authority and the new owner and/or *[continuing]responsible* authority.

1. Until the time the permit is officially transferred, the original permittee remains responsible for complying with the terms and conditions of the existing permit.

2. To receive a *[transfer]transferred* permit, the new owner and/or *[continuing]responsible* authority must complete an application according to section (5) and/or section (7) of this rule and demonstrate to the department that the new *[continuing]responsible* authority agrees to be responsible for compliance with the permit.

3. The new owner and/or *[continuing]responsible* authority shall be responsible for complying with the terms and conditions of the permit upon transfer.

(B) The department, within thirty (30) days of receipt of the application, shall notify the new applicant of its decision to revoke and reissue or transfer the permit.

(C) For facilities with construction and/or operating permits that the department is unable to reissue *[the operating permit]* within thirty (30) days of the transfer application, the construction and/or operating permit may be transferred to the new permittee if/:-

1. The current permittee notifies the department at least thirty (30) days in advance of the proposed transfer date;

2. The notice includes a complete application for transfer between the existing and new permittees containing a specific date for transfer of construction and/or permit responsibility, coverage, and liability between them; and

3. The department does not notify the existing permittee and the proposed new permittee of its decision to revoke and reissue or transfer the operating permit. If no objection is received from the department within thirty (30) days of receipt of the notice, the transfer is effective on the date specified in the agreement.

(12) Closure of Treatment Facilities.

(A) Persons who cease operation or plan to cease operation of waste, wastewater, and sludge handling and treatment facilities shall close the facilities in accordance with a closure plan approved by the department.

(B) Closure plans shall address wastewater and sludge *[removal]***handling**, dewatering activities, removal of treatment structures, removal of solid waste*[,]* or leaving in place as clean fill, **and** site grading and site shaping so that ponding does not occur.

(C) Closure plans shall be submitted to the department no later than ninety (90) days after ceasing operations. The permittee, owner, *[and\or]***and/or** responsible party shall complete closure activities within the *[timeframe]***time frame** provided in the **approved** closure plan.

(D) Operating permits under section (7) of this rule or under 10 CSR 20-6.015 are required until all waste, wastewater, wastewater solids/sludges, and any solid wastes have been **properly handled** *[disposed of]* in accordance with the closure plan approved by the department under subsection (12)(A) of this rule, and any disturbed areas have been properly stabilized.

(13) General Operating Permits.

(A) The department may issue a general operating permit in accordance with the following:

1. The general operating permit covers a category of discharges described in the permit except those covered by site-specific permits within a geographic area. The area corresponds to existing geographic or political boundaries, such as—

- A. Designated planning areas under Sections 208 and 303 of the Federal Clean Water Act;
- B. City, county, or state political boundaries, or special sewer districts;
- C. State highway systems; and
- D. Any other appropriate division or combination of boundaries; and

2. The general operating permit regulates a category of point sources if the sources all—

- A. Involve the same or substantially similar types of operations;
- B. Discharge the same types of wastes/wastewaters;
- C. Require the same effluent limitations or operating conditions;
- D. Require the same or similar monitoring; and

E. Are controlled more appropriately, in the opinion of the department, under a general operating permit than under site-specific permits.

(B) General operating permits may be issued, modified, revoked, and reissued or terminated in accordance with applicable requirements of this regulation. To be included under a general operating permit, submit an application on forms supplied by the department.

(C) The department may require any person authorized by a general operating permit to apply for and obtain a site-specific operating permit. Any interested person may petition the department to take action under this subsection. Cases where a site-specific operating permit may be required, include, but are not limited to, the following:

- 1. The discharge(s) is a significant contributor of pollution which impairs the beneficial uses of the receiving water;
- 2. The discharger is not in compliance with the conditions of the general operating permit; and

3. A Water Quality Management Plan containing requirements applicable to these point sources is approved by the department.

(D) Any owner and *[continuing]***responsible** authority authorized by a general operating permit may request to be excluded from the coverage of the general operating permit by applying for a site-specific permit.

1. When a site-specific operating permit is issued to an owner and *[continuing]***responsible** authority otherwise subject to a general operating permit, the applicability of the general operating permit is terminated automatically on the effective date of the site-specific permit.

2. A source excluded from a general operating permit solely because it already has a site-specific permit may request that the site-specific permit be revoked and that it be covered by the general operating permit, if it meets all the requirements for coverage.

(E) The department may require any person applying for a site-specific permit to obtain a general operating permit **when the source meets the conditions of the general operating permit.**

(14) Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new pipelines and storage tanks are exempt from permitting if the discharge is de minimis (less than one thousand (<1,000) gallons) or the person takes the following steps:

(A) Discharge Limits. The discharge must meet the following limits:

1. 100 mg/L total suspended solids;

2. pH:

A. Missouri or Mississippi Rivers, in the range from 6.0 to 10.0 standard units; or

B. All other waters, in the range from 6.5 to 9.0 standard units;

3. 0.32 mg/l ethylbenzene;

4. 0.005 mg/L benzene;

5. 1.0 mg/L toluene; and

6. 10.0 mg/L xylene.

(B) Sampling and testing requirements. One (1) grab sample shall be taken per discharge during the first sixty (60) minutes of the discharge and be analyzed for the pollutants listed in (14)(A) of this rule as well as total discharge volume in gallons per day.

(C) Exception reporting. If any of the sampling results from the hydrostatic test discharge show any exceedance of (14)(A) limits, provide written notification, including the date of the sample collection, the analytical results, and a statement concerning the modifications in management practices that are being implemented to address the violation within five (5) days of notification of analytical results to the department.

(D) The hydrostatic testing water shall not contain dyes or have a visible sheen indicating the presence of petroleum products.

(E) Any person who irrigates wastewater from a hydrostatic test may do so under this rule if the irrigation does not result in any discharge to waters of the state. The quality of the irrigated wastewater is not required to meet the limits in (14)(A).

(F) Persons discharging under this exemption are not required to obtain a separate permit to construct and operate an oil-water separator to aid in meeting limits for hydrostatic wastewater.

(15) Variance Request Process.

(A) Water Quality Standards Variance. Any person, permittee, or group of permittees seeking a variance shall file a petition for variance with the department according to 40 CFR 131.14, as published August 21, 2015 by the EPA Docket Center, EPA West 1301 Constitution Avenue NW., Washington, DC 20004. This rule does not incorporate any subsequent amendments or additions.

(B) Non-water Quality Standard Variance. Any person, permittee, or group of permittees seeking a variance shall file a petition for variance with the department according to section 644.061, RSMo.

(C) Provisional Variance.

1. A provisional variance is a short-term, time-limited reprieve from limitations, rules, standards, requirements, or order of the director because of conditions beyond the reasonable control of the permittee, would result in an arbitrary or unreasonable hardship, and the compliance costs are substantial and reasonably certain.

2. In accordance with section 644.062, RSMo, any person or permittee may apply for a provisional variance for limitations, rules, standards, requirements, or orders from the department pursuant to sections 644.006 through 644.141, RSMo. A provisional variance may not be granted under this regulation for limitations, rules, standards, requirements, or orders from the department pursuant to other statutes. The application for a provisional variance shall include information in accordance with subsection (15)(A) of this rule.

3. The provisional variance is issued by the department and may be retroactively applied upon permittee request. If a provisional variance is granted, notice shall be given using the same method prescribed for operating permits issued by the department in 10 CSR 20-6.020. The department shall promptly notify the applicant of the decision in writing and file the decision with the Missouri Clean Water Commission. Granting of a provisional variance is documentation of the department's enforcement discretion. There is no public notice period prior to issuance of a provisional variance. If retroactively granted, the permittee shall submit appropriate modified reports (such as discharge monitoring or those prescribed in a permit) within twenty (20) days of the provisional variance issuance date.

4. Provisional variances shall not be granted for the following:

A. In the department's *[judgement]***judgment** said variance would endanger public health, cause significant harm to aquatic life or wildlife, result in damage to property, or other demonstrable and measurable harm to downstream interests;

B. In anticipation of federal approval of any changes to a state water quality standard;

C. From the requirement to obtain a permit for an activity, in accordance with 10 CSR 20-6 and Chapter 644, RSMo;

D. To allow an activity which would otherwise require a permit to begin before the department issues or denies a permit; or

E. To allow a facility to exceed a permit limitation while the department considers an application to modify the permit limitation.

5. A provisional variance may be issued for up to forty-five (45) days, and may be extended once for up to an additional forty-five (45) days. The appropriate length of the provisional variance shall be determined at the discretion of the department.

A. Provisional variances may be issued for periods less than forty-five (45) days, or terminated earlier than the length of time specified at issuance, at the permittee's request (assuming that the variance is no longer essential for compliance).

B. The provisional variance may be granted subject to conditions determined necessary by the department. In order to qualify for an extension, a demonstration that the conditions under which the previous variance were granted still exist or are substantially similar.

C. In no case shall a provisional variance be granted to the same facility for more than ninety (90) days within the same calendar year.

6. Should a facility apply for multiple provisional variances or a single variance for the maximum ninety (90) days allowed, a long-term plan to eliminate the need for relief from the same limit, rule, standard, requirement, or order, subject to the restrictions set forth above, needs to accompany the request in order for the application to be considered complete.

7. If the provisional variance is issued for a delay of implementation of limitations, rules, standards, requirements, or orders from the department to correct a violation, section 644.042, RSMo, requires the applicant post a performance bond or other security to assure completion of the work covered by the variance. The proof of financial responsibility may be in the form of a surety bond, CD, or irrevocable letter of credit and be subject to the following:

A. The bond is signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri;

B. The bond remains in effect until the terms and conditions of the variance are met and rules and regulations promulgated pursuant thereto are complied with;

C. It is on file with the department;

D. It is made payable to the department; and

E. If the bond, CD, or letter of credit is cancelled by the issuing agent, submit new proof of financial responsibility within thirty (30) days of cancellation, or the provisional variance will be cancelled.

AUTHORITY: sections 640.710 and 644.026, RSMo 2016. Original rule filed June 6, 1974, effective June 16, 1974. Rescinded: Filed Oct. 16, 1979, effective July 10, 1980. Readopted: Filed Feb. 4, 1980, effective July 11, 1980. Amended: Filed Sept. 8, 1981, effective Feb. 11, 1982. Amended: Filed Nov. 10, 1982, effective May 12, 1983. Amended: Filed Sept. 11, 1984, effective March 12, 1985. Amended: Filed Feb. 1, 1988, effective June 13, 1988. Amended: Filed Sept. 13, 1988, effective Feb. 14, 1989. Amended: Filed July 15, 1991, effective Jan. 13, 1992. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed Nov. 3, 1997, effective July 30, 1998. Amended: Filed May 15, 2003, effective Jan. 30, 2004. Amended: Filed May 12, 2008, effective Feb. 28, 2009. Amended: Filed March 16, 2009, effective Dec. 30, 2009. Emergency amendment filed July 14, 2011, effective Oct. 31, 2011, expired April 27, 2012. Amended: Filed July 14, 2011, effective April 30, 2012. Amended: Filed June 13, 2018, effective Feb. 28, 2019. ** Amended: Filed June 30, 2022, effective Feb. 28, 2023.*

**Original authority: 640.710, RSMo 1996, and 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995, 2000, 2012, 2014.*

***Pursuant to Executive Order 21-07, 10 CSR 20-6.010, paragraph (5)(G)3. was suspended from April 8, 2020 through May 25, 2021.*

Op. Atty. Gen. No. 53, Lafser (1-26-79). *The point source discharges of pollutants from federal facilities within the state of Missouri are subject to the same NPDES program requirements as are any other point source discharges of pollutants subject to the Missouri Clean Water Law and regulations.*

Op. Atty. Gen. No. 156, Wilson (8-18-76). *The initial responsibility for issuing Clean Water Commission permits under section 204.051, RSMo Supp. 1975 rests with the director of the Department of Natural Resources acting in his/her capacity of administering Department of Natural Resources programs relating to environmental control and executing policies established by the Clean Water Commission.*

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources. To be considered, comments must be received by the end of the public comment period, which is 5 p.m. February 9, 2026. A public hearing is scheduled for February 2, 2026, at 1 p.m., at the Department of Natural Resources, Lewis and Clark State Office Building, 1101 Riverside Drive, Jefferson City, MO 65101. A virtual option is available at <https://stateofmo.webex.com/stateofmo/j.php?MTID=m4306c5f103bed0faade1fd538aa66c3b>*

meeting number (access code) 2630 901 0566, password DNR, or call-in number 1-650-479-3207. Comments may also be submitted to Owen Gallagher, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176, via email at owen.gallagher@dnr.mo.gov, or online at <https://apps5.mo.gov/proposed-rules/welcome.action#OPEN>.