

Missouri Department of Natural Resources  
**Regulatory Impact Report**  
In Preparation For Proposing  
Amendment 10 CSR 10-6.220

Applicability: Pursuant to Section 640.015 RSMo, “all rulemakings that prescribe environmental conditions or standards promulgated by the Department of Natural Resources...shall... be based on the regulatory impact report...” This requirement shall not apply to emergency rulemakings pursuant to section 536.025 or to rules of other applicable federal agencies adopted by the Department “without variance.”

Determination: The Missouri Department of Natural Resources has determined this rulemaking prescribes environmental conditions or standards and verifies that this rulemaking is not a simple unvarying adoption of rules from other federal agencies. Accordingly, the Department has produced this regulatory impact report which will be made publicly available for comment for a period of at least 60 days. Upon completion of the comment period, official responses will be developed and made available on the agency web page prior to filing the proposed rulemaking with the Secretary of State. Contact information is at the end of this regulatory impact report.

1. Describe the environmental conditions or standards being prescribed.

The purpose of this rulemaking is to remove a statement from the compliance and performance testing provisions that does not meet Clean Air Act requirements. This statement could be interpreted as allowing for exemptions in federally enforceable emission limits through the state director’s discretion. This action was initiated by a petition received by the U.S. Environmental Protection Agency (EPA) concerning the treatment of excess emissions by sources during startup, shutdown, or malfunction conditions. EPA responded to the petition (February 22, 2013 Federal Register publication 78 FR 12460) by proposing a State Implementation Plan (SIP) Call that requires us to fix this deficiency in the rule within 18 months of the final SIP Call (expected May 22, 2015). At the same time, several other changes are being made to the rule that include:

- > Adding an exemption for power plants that comply with more stringent particulate matter (PM) limits in 40 CFR 63 subpart UUUUU (Mercury and Air Toxics Standards or MATS) and have PM Continuous Emissions Monitoring Systems (CEMS) installed.
- > Adding an exemption for sources regulated by 40 CFR 63 subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters, which has stricter opacity limits.
- > Adding an exemption from the monitoring and recordkeeping requirements for emission units with controlled emissions of less than 1 lb PM<sub>10</sub>/hr.

- > Adding an exemption for fugitive emissions subject to 10-CSR 10-6.170.
- > Revising the exemption in subsection (1)(A) to include all internal combustion engines.
- > Adding an exemption for units burning only gaseous fuels and using proper combustion techniques.
- > Clarifying that this rule applies to outdoor emissions and does not apply to indoor emissions or water vapor.
- > Adding monitoring and recordkeeping requirements for sources without Continuous Opacity Monitoring Systems (COMS). This schedule is similar to that which has been included in air permits but will require an EPA Method 9 test if any visible emissions are present.
- > Removing definitions in this rule that can be found in 10 CSR 10-6.020 Definitions and Common Reference Tables.

2. A report on the peer-reviewed scientific data used to commence the rulemaking process.

No scientific data was used to commence the rulemaking process.

3. A description of the persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule.

The persons most likely to be affected by this proposed rule are sources of visible emissions (primarily particulate matter) throughout the state of Missouri except those listed under exemptions in 10 CSR 10-6.220. This includes sources such as power plants, painting facilities, facilities with non-gas fired boilers or heaters, grain elevators, landfills, and wood products manufacturing facilities.

4. A description of the environmental and economic costs and benefits of the proposed rule.

The department's Air Pollution Control Program does not anticipate any major costs. This rule will be implemented much like it is today after this rulemaking. The proposed exemptions will remove unnecessary requirements for emission sources that are already regulated by another rule for visible emissions, sources that are not permitted by the department's Air Pollution Control Program, and small sources that do not have the ability to exceed the visible emission limit. The Air Program developed a technical demonstration showing that adding the exemptions will not have an adverse impact on air quality, and EPA has verbally concurred with our analysis. These exemptions will reduce the regulatory burden on a number of Missouri sources while remaining protective of air quality in the state.

Any costs that businesses would incur would come from the new monitoring requirement that would be applied to sources without COMS in the event an emission unit has visible emissions. This circumstance would require these sources to perform an EPA Method 9 test which may require a fee for a qualified observer or training of an employee to conduct the test.

This rulemaking produces benefits by establishing consistent recordkeeping and reporting requirements. Because the rule currently does not include a monitoring/recording schedule for sources without COMS, the department's Air Pollution Control Program has been filling this gap through the permitting process. Adding a clear monitoring and record keeping schedule to the rule reduces confusion and ensures consistency when permitting affected sources and enforcing these requirements.

5. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.

There are no anticipated costs to the agency or to any other agency for the implementation and enforcement of the proposed rulemaking. There are no anticipated effects on state revenues.

6. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits.

This rulemaking produces benefits by establishing consistent recordkeeping and reporting requirements. Because the rule currently does not include a monitoring/recording schedule for sources without COMS, the department's Air Pollution Control Program has been filling this gap through the permitting process. Adding a clear monitoring and record keeping schedule to the rule reduces confusion and ensures consistency when permitting affected sources and enforcing these requirements.

Inaction could result in unnecessary or redundant monitoring requirements for some sources due to stricter standards from other regulations.

7. A determination of whether there are less costly or less intrusive methods for achieving the proposed rule.

The department is not aware of a less costly or less intrusive method for achieving the proposed amendment.

8. A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule.

The department's Air Pollution Control Program is not aware of any alternative methods for achieving the purpose of the proposed rule amendment.

9. An analysis of both short-term and long-term consequences of the proposed rule.

The short- and long-term consequences of the proposed amendment will be reducing the regulatory burden on sources with emission units that have other source specific requirements already in place or have emission units with negligible visible emissions.

10. An explanation of the risks to human health, public welfare or the environment addressed by the proposed rule.

The sources being relieved of the requirements of this rule are regulated by other rules, both state and federal, which have limits that are at least as strict or have negligible visible emissions. There is no risk to human health, public welfare, or environmental quality as a result of this rulemaking. This rule serves to protect human health, public welfare, and the environment by reducing regulatory burden on affected sources while remaining protective of air quality.

11. The identification of the sources of scientific information used in evaluating the risk and a summary of such information.

No scientific information was needed in proposing this amendment.

12. A description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate.

An analysis of risk was not necessary for this rulemaking.

13. A description of any significant countervailing risks that may be caused by the proposed rule.

The department's Air Pollution Control Program is not aware of any countervailing risks that may be caused by the proposed amendment.

14. The identification of at least one, if any, alternative regulatory approaches that will produce comparable human health, public welfare or environmental outcomes.

There are no known alternative regulatory approaches that will produce comparable human health, public welfare, or environmental outcomes.

15. Provide information on how to provide comments on the Regulatory Impact Report during the 60-day period before the proposed rule is filed with the Secretary of State.

Formal comments can be provided on either the Regulatory Impact Report or the draft rule text by sending them to the contact listed in question 16.

16. Provide information on how to request a copy of comments or the web information where the comments will be located.

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P.O. Box 176  
Jefferson City, MO 65102-0176

or

Missouri Air Conservation Commission  
P.O. Box 176  
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or call: (573) 751-4817

Copies of formal comments made on either the Regulatory Impact Report or the draft rule text may be obtained by request from the contact listed above or by accessing the Rules In Development section at web site [www.dnr.mo.gov/env/apcp/RulesDev.htm](http://www.dnr.mo.gov/env/apcp/RulesDev.htm) for this particular rulemaking.