



Permit Consolidation Rule

10 CSR 1-3.010 Consolidation of Permit Processing

(1) Whenever a facility or activity requires more than one environmental permit from the state, an applicant may request or the department may offer a unified permitting schedule that covers the timing and order to obtain such permits, as provided in section 640.017, RSMo. The department may also initiate the unified permits process for a class of similar activities by proposing a unified permitting schedule to any known applicants interested in those regulated activities. In either case, an applicant may decline at any time to participate in the unified permits process and instead proceed in a permit-by-permit approach.

(2) The department will determine all of the permits required for a specific proposed activity based on information provided by the applicant; additional information regarding the proposed activity may result in different permits being required.

(3) The department will coordinate with interested applicants on the unified permit schedule. In determining the schedule, the department and applicant will consider which permits are most critical for the proposed activity, the opportunity for unified public participation for all of the regulated aspects of the permitted activity, the applicant's anticipated staging of construction and financing for the permitted activity, and the applicant's use of innovative environmental approaches or strategies to minimize its environmental impacts or other relevant aspect of the proposed activity or relevant permits. The department will coordinate with the applicant, to the extent possible, to align the unified permit process so that all public meetings or hearings related to the permits are consolidated into one hearing in a location near the proposed activity. The department may waive applicable procedural requirements related to timing prescribed in chapters 260, 444, 640, 643, and 644, RSMo, so long as:

(A) The public comment periods related to each permit are not shortened; and

(B) The unified permitting schedule does not impair the ability of the applicant or the department to comply with substantive legal requirements related to the permit application.

(4) Following the establishment of a unified permitting schedule, the department will notify the applicant in writing of the order in which the applicant will obtain the permits. The department will publicize the order and tentative schedule on the department's Internet web site. The department may only modify the schedule with the consent of the applicant through the date of the public hearing. The department will review each permit application based solely on its own merits and compliance with the applicable law and regulations.

**Missouri Department of Natural Resources
Rulemaking Report
DRAFT Updated: April, 2009**

Affected Rule: New Rule 10 CSR 1 – 3.010, Consolidation of Permit Processing

1. What is the purpose of this rulemaking?

This rulemaking would codify the requirements related to SB 1181 of 2008, which allows the department to coordinate the review and issuance of all construction and operating permits at regulated activities where multiple permits are involved. This allows the applicant for multiple permits to examine the total environmental permitting requirements for the entire activity, and stage permits so that the most critical permit is secured before a large amount of time and effort is used on other minor permits. The permit provisions of SB 1181 begin on page 24, and the bill can be found at

http://www.senate.mo.gov/08info/BTS_Web/Bill.aspx?SessionType=R&BillID=144166. These provisions are also in the Revised Statutes of Missouri, and can be found at section 640.017 at <http://www.moga.mo.gov/statutes/C600-699/6400000017.HTM>.

The statute and this accompanying rule allow the director of the department to establish an order and tentative schedule to coordinate the permit activities for all regulated unpermitted or new activities. This would provide a clear picture of all of the permits required for a new or unpermitted activity, as well as to the interested public. The order of permits and the tentative schedule through which the permits would be processed would provide transparency and predictability to the process, as well as efficiencies since any meetings or hearings may be able to cover all permit applications in the same forum.

This statute and rule provide a useful tool for the department to work with major, multi-permit facilities so that the permit requirements can be met in concert with reasonable development expectations. It may provide efficiencies to the applicant in terms of consistent permit applications, to the public in terms of efficiency in reviewing projects and providing comments, and to the department in being able to reach decisions on permits in a timely manner. It allows consideration of all environmental aspects of a planned activity at the same time, rather than piece by piece through individual permit applications separated through time.

2. Why is the rulemaking being proposed now?

SB 1181, passed into law in 2008, requires the department to promulgate rules to implement its provisions.

3. Will the rulemaking incorporate any document by reference, rather than state the language within the rulemaking?

No.

4. Does this rulemaking prescribe environmental standards, limits or conditions and is a Regulatory Impact Report required for this rulemaking?

No. This rulemaking does not prescribe environmental standards, limits or conditions, and does not require a Regulatory Impact Report. The rulemaking established procedures for processing multiple permits in concert with each other.

5. What authority does DNR have to carry out this rulemaking?

640.017.7, RSMo.

6. What does the rulemaking require and how does it produce benefits?

The rulemaking allows, but does not require, applicants to work with the department to schedule the various permits needed for an operation for the efficient use of the operations, the public's and the department's resources. The applicant and department would determine which permits are required and how the various requirements of each permitting process can be satisfied within a schedule that makes the best use of time and resources. For example, public meetings may be arranged to cover multiple topics so that any concerns with the different aspects of the operation may be discussed in the same forum.

7. Who is most likely affected by the rulemaking?

This rulemaking may be applied at any facility that requires multiple environmental permits, but is not required of any operation. The use of the rulemaking may range from complex facilities with ten or more individual permits to smaller operations that still require two or three separate environmental permits. The rulemaking does not apply to any specific types of permits, and therefore it may apply to any group of environmental permits the department administers.

8. What impact will the rulemaking have on small businesses? (A small business is defined by statute as a for-profit enterprise with fewer than 100 full or part-time employees.)

Businesses of any size may take advantage of the opportunities provided in this rulemaking. It does not place requirements on any business that does not choose to pursue permitting in this manner, and allows any applicant to withdraw from a schedule using this rule to the former system of processing each individual permit on an independent basis.

9. What are the probable costs for the department or any other public agency in the implementation and enforcement of the rulemaking?

There is a minor additional cost of up-front coordination to establish and publish the schedule for the operation's permitting. The department assumes more than this cost is ultimately saved by the efficiencies used in this process, resulting in a net savings through this process.

10. What is the anticipated effect of the rulemaking on state revenue?

There is no effect on state revenue. No permit fees or other revenues are changed by this rulemaking.

11. Who was/will be involved in developing the rulemaking?

The department will advise the regulatory commissions and media forums of this rulemaking, and invite their input as it goes forward. All of the relevant stakeholders are typically involved in these proceedings, and in addition the rulemaking will go through the normal process which allows any other interested parties to become involved to the extent desired.

12. How has/will the development of the rulemaking been/be shared with interested parties and the public at large?

The subject of this rulemaking was considered by the Missouri General Assembly in 2008 as Senate Bill 1248 and House Bill 2125. Both bills were heard in committee and neither received any testimony in opposition. The provisions of those bills were ultimately amended into Senate Bill 1181, which passed and was signed into law.

13. Who may I contact to either ask questions or provide input on this rulemaking?

John Madras, Division of Environmental Quality, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102-0176 Phone: (573) 751-1233, E-mail: john.madras@dnr.mo.gov

14. What is the expected calendar for this rulemaking, particularly the dates for the comment period and public hearing?

Coordination with regulatory commissions and media forums	March – May, 2008
Interagency Coordination	June, 2008
Filing with Small Business Regulatory Fairness Board, Joint Committee on Administrative Rules and Secretary of State	July, 2008
Publication in <i>Missouri Register</i>	August, 2008
Public comment period	August, 2008
Order of Rulemaking filed with Joint Committee on Administrative Rules	September, 2008
Order of Rulemaking filed with Secretary of State	October, 2008
Order of Rulemaking published in <i>Missouri Register</i>	November, 2008
Rule published in Code of State Regulations	December, 2008
Rule effective	January, 2010