

Missouri Clean Water Commission Meeting
Department of Natural Resources
Lewis and Clark State Office Building
LaCharrette/Nightingale Creek Conference Rooms
1101 Riverside Drive
Jefferson City, Missouri

October 4, 2017

**Proposed Revisions to Water Quality Standards
10 CSR 20-7.031**

Issue: The Department is finalizing its recommendation on proposed revisions to the Water Quality Standards (WQS) at 10 CSR 20-7.031 and is informing the Commission of items proposed for the rulemaking.

Background: Pursuant to Section 303(c) of the federal Clean Water Act, the Department has held workgroup and stakeholder meetings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting new or revised standards. The water quality standards to be addressed during this rulemaking include U.S. Environmental Protection Agency (EPA) disapprovals from previous rulemakings and revisions as a result of stakeholder input and discussion.

Priorities established as a result of this process include addressing EPA disapproved items (i.e., numeric nutrient criteria for lakes, variance language), updating water quality criteria for pH and other pollutants, changes to sections describing mixing zones and general criteria, and updating reference to Department documents and datasets.

The Department has prepared preliminary draft revisions to the WQS to address the above issues, to make the standards functionally equivalent to federal standards and to improve the clarity, specificity and effectiveness of the rule.

Recommended Action: Information only

Suggested Motion Language: Information only

List of Attachments: Public Notice of Regulatory Impact Report



Public Notice of Regulatory Impact Report for
10 CSR 20-7.031, *Water Quality Standards*
July 24, 2017 – September 22, 2017

The Missouri Department of Natural Resources has published a Regulatory Impact Report on proposed revisions to 10 CSR 20-7.031, *Water Quality Standards*. The report is required at the beginning of the rulemaking process for rules prescribing environmental standards or conditions. This report documents the environmental and economic costs and benefits associated with the upcoming rulemaking. The Department is proposing an amendment to Missouri's *Water Quality Standards*. Revisions are necessary to update the regulation and to incorporate federal and state requirements and include items identified during stakeholder discussions following the Department's public notice of intent to initiate a triennial review.

Under Governor Greitens' leadership, all state agencies are working to reduce regulations or other government rules or processes that unnecessarily burden individuals and businesses while doing little to protect or improve public health, safety and our natural resources. Under Director Carol S. Comer, the Department is committed to limiting regulation to only what is necessary to protect Missouri's environment, implement statutory mandates and maintain state control of programs.

The proposed changes to Missouri's Water Quality Standards and accompanying Regulatory Impact Report have been issued with these goals in mind. We welcome your comments to help ensure that our regulations provide required protections but do not add unneeded costs.

The most significant component is the revision of lake nutrient criteria that is required as the result of recent litigation against the U.S. Environmental Protection Agency (EPA). EPA is obligated to propose numeric nutrient water quality criteria for Missouri lakes by December 15, 2017, if the state does not do so. The Department has developed cost opinions of the impacts to public and private permittees both from these proposed nutrient criteria and from criteria that EPA would likely promulgate using federal ecoregional criteria for lakes. The Department estimates its rule would require upgrades to remove nutrients at approximately 166 public and private wastewater treatment plants. Estimates of statewide costs to implement the proposed rule range from \$278 million to \$492 million, far less than the \$2.3 billion in upgrades the Department estimates a federal rule could cost Missouri wastewater systems.

Other changes that are proposed in this draft include the following revisions which the Department estimates will provide clarity and flexibility to the rule without additional regulatory burden:

Statutory requirements:

- Amends the definition of Waters of the State to match statutory changes enacted in 2015

Changes requested by stakeholders:

- Mixing zone requirements – allows greater latitude for mixing zones considerations for permittees
- pH criteria – clarifies the specific criteria for pH
- Hardness – changes the way that hardness values are statistically derived

Changes in response to EPA actions:

- Antidegradation – addresses concerns by EPA regarding *de minimis* provisions in the existing rule
- Dissolved Oxygen Criteria – removes site-specific dissolved oxygen criteria that were previously disapproved by EPA

EPA 304(a) criteria:

- Table A adopts certain national criteria developed by EPA, but does not include changes to aluminum, acute cadmium, manganese, ammonia, and bacteria/pathogens, all of which are under further review. The Department is required to update its criteria periodically to ensure that they conform to the most recent scientific data regarding the effects of these pollutants. With these revisions, the Department estimates that the changes will create increased (less stringent) limits for 1,376 permits, and decreased (more stringent) limits for 477 permits. No change is expected for 4,839 permits.

Administrative/Rule Clean-up:

- Table J - Removes an outdated table of losing streams and replaces it with a geospatial database
- Missouri Use Designation Dataset – updates the data set used to implement Missouri's use classification system

The Department is providing a public comment period for public review and comment on this report through September 22, 2017. A public comment period will also be provided on the proposed rule amendment during the rulemaking process.

The Regulatory Impact Report can be accessed online under the Proposed Rules, Rules In Development at <https://dnr.mo.gov/proposed-rules>. This report is also available on the Water Protection Program Rule Development web site at www.dnr.mo.gov/env/wpp/rules/wpp-rule-dev.htm. Documents supporting development of the Regulatory Impact Report are available and linked on the Water Protection Program Rule Development web site.

Written comments on the report will be accepted through 5 p.m. Friday, September 22, 2017. Comments must be submitted either online at <https://dnr.mo.gov/proposed-rules>, or by mail, at Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176, Attn: WQS Coordinator. Contact information in all comments should include your name, email address and phone number.